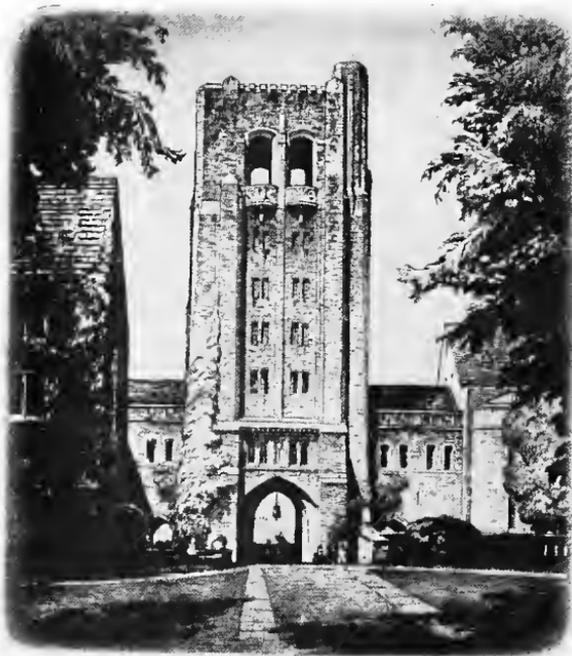




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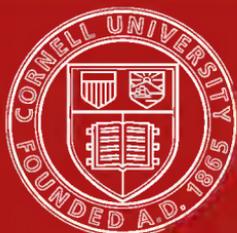
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STATE OF NEW YORK

PUBLIC PAPERS

OF

LEVI P. MORTON

GOVERNOR

1896



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PUBLIC PAPERS
OF
GOVERNOR MORTON

ANNUAL MESSAGE

STATE OF NEW YORK

Executive Chamber

Albany, January 1, 1896

TO THE LEGISLATURE:

The Constitution of the State provides that the Governor "shall communicate by message to the Legislature, at every session, the condition of the State and recommend such matters to them as he shall judge expedient." Under this mandate it therefore becomes my duty to advise you of all subjects requiring special attention at your hands and to suggest such legislation as my experience and observation in the Executive office leads me to regard as expedient and necessary.

It may be well to note, at the outset, that the pres-

ent Legislature is the first, in the history of the State, composed of two hundred members. By the first Constitution of 1777, an Assembly was created to consist of at least seventy members, and a Senate to consist of twenty-four members, and provision was made for an increase in both branches by a reapportionment to be made once in seven years; and the Assembly was limited to three hundred, and the Senate to one hundred members.

This scheme of legislative organization continued several years but it was not satisfactory. In 1801 a convention was called for the special purpose of revising that part of the Constitution relating to the Legislature. At that time the Assembly had increased to 108 and the Senate to 43 members. The Convention of 1801 provided for an Assembly of 100, with a possible increase to 150, but the Senate was fixed permanently at 32 members. When the Constitutional Convention of 1821 met, the Assembly had increased to 126 members. The Constitution then adopted fixed the number of Members of Assembly at 128, and continued the Senate with 32 members. No change was afterwards made in the membership of the Legislature until the Constitution of 1894. The Convention which revised the Constitution in that year was of the opinion that a more equitable distribution of legislative representation could be secured by slightly increasing the number of members in each branch.

The Assembly was accordingly fixed at 150, and the Senate at 50 members, making an increase in the Assembly of 22, and in the Senate of 18. This makes an aggregate increase of twenty-five per cent. but it is believed that neither branch will be unwieldy, and that the Legislature is not now too large for a representative body in a State with such a great and diversified population, and such immense interests as New York possesses. Members of Assembly have always been elected annually, but prior to 1847 senators were elected for four years.

All of the three co-ordinate branches of the government, namely, the legislative, the executive and the judicial, were modified by the new Constitution. The Legislature was enlarged, the term of office of the Governor was again reduced to two years, and the judicial system was materially reorganized. Various local courts were abolished, and merged in the Supreme court, and additional justices were provided, so that now this court consists of seventy-six justices, twenty-two of whom compose a branch known as the "Appellate division." With the exception of the section relating to prison labor, the new Constitution goes into full operation to-day, and we begin a new era of constitutional government.

We cannot be insensible to the fact that our imperial position in the family of states gives a peculiar and conspicuous interest to our legislation and our

constitutional changes. Government by "the people" in America was first proclaimed in the colony of New York, and our position of primacy has since been consistently maintained. Our State has been the pioneer in many important reforms in the general body of law, especially in procedure and the administration of justice; in social and domestic relations, and in commercial and business methods; and a broad constitutional expansion and enlargement have gone hand in hand with the gradual development and improvement of our commonwealth. The prominence of our position imposes a corresponding responsibility, and it should be the aim of all concerned in the enactment of laws to make our legislation fairly reflect the manners, customs, and social condition of our people, and at the same time embody those wise principles of government which make for the greatest happiness of the State.

THE VENEZUELAN QUESTION

The doctrine formulated by President Monroe, and which has since borne his name, has become so well established in American national policy that there is no room for doubt as to the opinion of our people concerning it. New York now has a population nearly equal to that of the entire Union when Mr. Monroe became president, and our peculiar geographical position, the location within our borders of the American metropolis, and the vast and compli-

cated commercial interests of our State, justify us in feeling an especial concern in the present unhappy agitation. Any disturbance of the existing friendly relations between the United States and Great Britain cannot fail to have a serious effect. Because of the possible baleful consequences of such disturbance, I deem myself justified in making this reference to the larger affairs of the nation, in which we feel such a peculiar and vital interest.

I cannot believe that the relations between our country and Great Britain will be ruptured or seriously impaired by the misunderstanding now existing between that country and Venezuela concerning the proper location of the boundary line of their possessions in South America. Arbitration affords a simple humane and honorable method of determining national disputes ; and it is scarcely conceivable at this period of the world's history that any great nation is willing to take the responsibility of the needless sacrifice of human life and the wanton destruction of property which would be the inevitable result of an armed conflict.

THE STATE FINANCES

From the figures furnished by the Comptroller I am gratified to be able to announce that the finances of the State are in a satisfactory condition. The State tax for the current fiscal year is 3 24-100 mills, for the following purposes :

	Mills.
For schools, per ch. 808, laws of 1895....	94-100
For canals, per ch. 282, laws of 1895.....	20-100
For canals, per ch. 808, laws of 1895.....	16-100
For general purposes, per ch. 808, laws of 1895.....	94-100
For state care of insane, per ch. 693, laws of 1895. 1.	
	<hr/>
Total.....	3 24-100
	<hr/> <hr/>

The above tax of 3 24-100 mills on the present valuation, \$4,292,082,167, will yield \$13,906,346.23, distributed as follows :

General tax.....	\$4,034,557 24
Schools.....	4,034,557 24
Canals	1,545,149 58
State care of insane.....	4,292,082 17
	<hr/>
	\$13,906,346 23
	<hr/> <hr/>

The amount received from the corporation and organization tax for the fiscal year ending September 30, 1895, was \$2,115,807.85. The amount received for the fiscal year ending September 30, 1894, was \$1,796,640.87 ; increase, \$319,166.98.

When the present comptroller assumed office 2,152 corporations were paying taxes. Since that time 2,793 corporations that had hitherto for various causes escaped taxation have been added to the list of taxpayers. But during the same period, in consequence of the depression of business, 869 old corporations, or over 40 per cent. of the entire number, went out of business for one cause or another. This loss, how-

ever, was more than made good by the new additions, and the total number of corporations paying taxes October 1, was 4,051, against 2,152 in 1893 on the corresponding date.

The amount received from the tax on inheritances for the fiscal year ending September 30, 1895, was \$2,126,894.61. The amount received for the fiscal year ending September 30, 1894, was \$1,688,954.20; increase, \$437,940.41. This is the largest amount of transfer taxes collected in any one year since the law went into effect, except in 1893, when four estates paid \$1,096,036.97 taxes, and 15 estates paid more than half of the entire amount collected. Last year only one estate paid in excess of \$72,613.

The receipts and payments for the year were as follows :

Aggregate balance in the treasury of all the funds of the State, October 1, 1894	\$1,548,286 57
Aggregate receipts during the fiscal year ending September 30, 1895	20,319,881 35
Total receipts and balances	\$21,868,167 92
Deduct payments during the year	20,457,081 93
Balance in the treasury September 30, 1895	<u>\$1,411,085 99</u>

The total payments for the fiscal year ending September 30, 1895, for charitable purposes, that is, for the support of asylums and hospitals for the deaf,

blind, insane, idiotic, epileptic, houses of refuge, reformatories, Soldiers and Sailors' home, etc., was \$4,212,161.82. The total payments from the State treasury for educational purposes for the fiscal year ending September 30, 1895, was \$4,777,792.31.

The causes for the increase in the tax rate for the year 1895 may be briefly stated :

State tax rate of 1895, 3 24-100 mills ; state tax rate of 1894, 2 18-100 mills ; increase in 1895, 1.06 mills.

The increase in the tax rate for the current fiscal year, of 1.06 mills, is accounted for as follows : Increase in proceeds of tax rate for the State care of the insane on account of the State assuming the care of the insane in New York and Kings counties, and for buildings, etc., \$2,906,121.08 ; appropriations of 1894, not included in last year's tax levy, not available until 1895, and included in this year's levy, \$493,150 ; estimated surplus used last year in fixing tax rate, no surplus being taken into account in this year's levy, \$1,089,177.48. Add for compensation of officers and members of the Legislature and for other expenses on account of increased representation under the new constitution, \$100,000. Add for maintenance of new institutions created by Legislature of 1894, \$120,000. For the following extraordinary purposes : State Veterinary College, \$100,000 ; Cotton State Exposition, \$25,000 ; Lexow investigation, \$67,434.10 ; State Land Survey, \$50,000 ;

Home for Veterans, \$25,000; award of Board of Claims in payment of two special awards, \$62,000; total, \$5,046,882.66.

Had it not been for the increase in appropriations for the care of the insane and other items mentioned in the foregoing statement, a tax rate of 2.07 mills would have been sufficient, which would have been a reduction of 11-100 of a mill from the tax rate of 1894, and of 1 17-100 mills from the tax rate of 1895.

CARE OF THE INSANE

It will become the duty of the present Legislature to formulate and pass a law which shall give effect to measures which will complete the plan under which this State fulfills its avowed policy of caring for all the dependent insane who live within its borders. In this great humanitarian reform New York was the pioneer among all the States of the Union, and the success which has attended the progress of the system has already demonstrated the fact that it embodies the wisest course toward the patients themselves and involves a lessened aggregate cost to the people. In my annual message to the Legislature of 1895 I recommended the assumption by the State of the care of the dependent insane of New York and Kings counties, and separate bills were passed unanimously for that purpose. The act relating to Kings county received the approval of the municipal authorities of Brooklyn and became a law, and on

October 1st last, the control and possession of the Kings county insane asylums passed to the State and became subject to the authority of the State Commission in Lunacy. The mayor of New York, however, did not act on the bill (as required by the Constitution) which provided for the transfer to the State of the property of New York County used in the care of the insane, and the measure therefore never came under executive jurisdiction. The Legislature, however, assuming that the act would be approved, had passed a special tax bill for the maintenance of the insane, which provided also for the anticipated cost of maintenance of the insane of New York County, estimated on the same basis as for the remainder of the State. The tax was duly levied and the money raised will be paid into the treasury and become available for the purpose intended. It will now, however, be impossible to apply it to the cost of such maintenance in New York for more than one-half of the current fiscal year. No reason exists why the *pro rata* sum of this fund applicable thereto cannot be used for the maintenance of the New York County insane for the unexpired portion of the current fiscal year, and I therefore earnestly recommend that a bill, substantially the same as the bill of last year, be passed at as early a date as possible, to take effect not later than the first of April next. The decision of the Court of Appeals rendered on the 20th ultimo, establishing the right of the State to collect

from the city of New York taxes levied in 1893, pursuant to the State Care Act of 1890, removes the last legal obstacle to the enactment of a bill for the transfer of New York city's insane to the care of the State.

In furtherance of the general plan of harmonizing the system of administration and expenditure at all of these State insane hospitals, which now shelter and maintain upwards of 20,000 inmates, a system of itemized monthly estimates for expenses was devised and authorized by chapter 214 of the Laws of 1893. It was required that these estimates be prepared in advance, and submitted for scrutiny and revision to the State Commission in Lunacy. The operation of this method during the past two years has demonstrated its wisdom, for its results have been to better the condition of the inmates by securing an improved quality of supplies and treatment, while it has at the same time realized in the first year a saving of \$300,000, and during the last fiscal year a somewhat larger amount has been saved to the taxpayers. Prior to this innovation all expenditures for maintenance had been made by the several boards of managers and the superintendents of the various hospitals, without any scrutiny in advance, and were largely controlled, or at least influenced, by local business considerations. Becoming aware, however, a year ago that the expenditures for buildings, repairs and improvements had required, on the average

of some years preceding, over \$1,000,000 annually, and believing from information submitted to me that under a judicious and economical system a considerable saving might be effected in these accounts, with equally good and possibly better results to the insane, I took occasion in my annual message to recommend a special tax sufficient to meet the actual needs of all the State hospitals and provide accommodations for the annual increase in the number of dependent insane. Before acting upon this recommendation the Legislature, very properly, in view of the magnitude of the work and the sums involved, made an exhaustive inquiry by a joint committee into the general subject of the administration of the Lunacy laws by the State Commission in Lunacy. That joint committee in its brief final report announced that it had found "nothing but what is commendable and meritorious" in the administration and methods of the Commission, and that "the Commission in Lunacy is entitled to public confidence, is honestly and capably discharging its important functions, and merits the esteem and favor of the people of the State."

Accordingly the Legislature last year authorized a special tax levy so as to cover the cost of new structures, renewals, and other extraordinary improvements for the State hospitals, and for general maintenance, and ceased making special appropriations for each hospital. In the same bill a provision

was enacted which empowered the State Commission in Lunacy to fix and establish practically uniform schedules of salaries and wages for all officers and employees in the various hospitals. This provision will cover the regulation of the compensation of nearly 4,000 employees and about 200 officers when the transfer of the New York County insane shall have been effected. There has been in the past much dissatisfaction regarding the inequality of salaries, giving rise to disorganization and a constant desire on the part of employees to secure transfer to duty in the hospitals where the most liberal wages were paid. The power given to the Commission to adjust and equalize these differences has wrought much good to the service. In dealing with this difficult question, as with many others, the Commission has met with much opposition, but with commendable steadfastness to duty it has invariably succeeded in conserving the public interests. The Legislative Joint Committee in its report, already alluded to, says: "The Commission is animated by a proper spirit of zeal and earnestness in its work, and is bringing to it intelligence, energy, courage and good judgment in a degree worthy of this public commendation. Its present composition (on the triple-headed plan) is calculated to insure efficiency in performance of duty and success in administrative results, in a larger measure than could, perhaps, be attained by any different arrangement." It has seemed to me proper

to deal at some length and in detail with this subject, not only because the department directed by the State Commission in Lunacy, which is now a constitutional body, is devoted to humanitarian work in behalf of a large population, but for the reason that this branch of the public service actually consumes and requires larger annual appropriations of money than any other department or commission in the State. And I recommend that the course pursued by the last Legislature in imposing a tax sufficient to meet the cost of necessary enlargements of the existing State hospital establishments, of needed repairs and improvements and of supplies and maintenance, be continued. If found necessary, further safeguards should be provided to secure the paramount advantage of the State as a whole, rather than the interest of any locality, in the expenditure of the vast sum now annually required.

PRISON LABOR

A very important feature of the Constitution of 1894 is found in article III, section 29, which requires the Legislature to provide by law "for the occupation and employment of prisoners sentenced to the several State prisons, penitentiaries, jails and reformatories in the State; and on and after January 1, 1897, no person in such prisons, penitentiaries, jails and reformatories shall be required or allowed to work, while under sentence thereto, at any trade,

industry or occupation wherein or whereby his work, or the product or profit of his work, shall be farmed out, contracted, given or sold to any person, firm, association or corporation. This section shall not be construed to prevent the Legislature from providing that convicts may work and that the products of their labor may be disposed of to the State or any political division thereof, or for or to any public institution owned or managed and controlled by the State or any political division thereof." By section 11 of article VIII. of the Constitution, the Legislature was directed to provide for a State Commission of Prisons, which shall visit and inspect all institutions used for the detention of sane adults charged with or convicted of crime, or detained as witnesses or debtors. In obedience to these requirements of the Constitution, the Legislature of 1895 provided for the establishment of a Commission composed of one member from each of the eight judicial districts of the State, to be appointed by the Governor within ten days after the passage of the act (chapter 1026, Laws of 1895) by and with the advice and consent of the Senate. This Commission was directed to visit and inspect all of the institutions used for the confinement or detention of persons as provided in the amendment to the Constitution, to obtain certain statistics and information, and to report the same to the Legislature, and to devise and recommend a

system for the employment of convicts, in accordance with the Constitutional requirements.

The Commission was duly appointed on July 25, 1895, and soon thereafter organized and entered upon the discharge of its duties. It has labored, I believe, with intelligence and fidelity, and the full report of its observations, examinations and recommendations will be submitted for your information. The Commission finds that former and present systems of farming out the labor of convicts under contract, and of manufacturing goods and wares on State account for sale in the open market, were both unprofitable to the State. They report that these methods materially interfered with the business of manufacturers and their employees, by disturbing the market and by reducing prices to the extent that some similar industries were injured seriously or driven from the State altogether. To remedy these conditions, the Commission will report that it is practicable to keep the prisoners employed at labor for the State, and to supply the public institutions with the products of prison labor, and the general features of a plan for such employment of the convicts will appear in the report. There has heretofore been no general system of management adaptable or adapted to all of the prisons; the State prisons are under the control of the State Superintendent; the reformatories are controlled by boards of managers; the penitentiaries, county jails and city prisons are

under the direction or management of county or municipal officers or boards. The logical outcome of this diversified management was correspondingly diverse systems, or rather methods, frequently leading up to conflicts and rivalry, with more or less detrimental results to the inmates and to the public interests. An instance of this is found in the fact that in the various prisons of this State there is to be found a large number of persons who committed crimes and were tried and convicted in other States, but who are actually held here as "boarders," on a stipulated rate *per diem*, which is paid by the authorities of the State from which they are received, or by the United States Government, which has no prison whatever for the confinement of persons convicted of violating the Federal statutes. A keen competition is at present maintained between the authorities controlling these prisons and penitentiaries, to secure the privilege of keeping these convicts, who are in all respects foreign to our State.

Under the authority conferred upon the new Commission by the Constitution, all of the penal or punitive institutions may be brought under one harmonious system. A revision of the existing statutes relating to prisons is requisite to accomplish this very desirable object, and to carry into effect the commands of the Constitution. Inasmuch as the employment of convicts or the sale of the products of their labor in competition with the labor and enter-

prise of the general public is forbidden after January 1, 1897, it is incumbent upon the Legislature to enact laws at this session which will give effect to the new provisions of the organic law. The Commission has pursued its inquiries with great care and I commend its detailed report and recommendations to your thoughtful attention.

INSANE CRIMINALS AND CAPITAL PUNISHMENT

There are two other subjects having relation to the prison system of the State which are worthy of your attention, and to which reference is here made with a view of bringing them directly to your notice. The first of these is the necessity of enlarging the existing accommodations for insane criminals. The State hospital at Matteawan, designed and built for this class of inmates, has been occupied only three years, but it is found too small for its uses. The old asylum at Auburn contained only about 250 inmates, but this new hospital was built with a capacity for 550 patients. It already has 534 inmates, and with the rapid ratio of increase will be overcrowded within a few months. The institution is under the control of the Superintendent of State prisons. Its inmates comprise three classes, viz : First, persons who are adjudged to have been insane when they committed crimes and who are therefore legally irresponsible, but are committed to the institution by the courts for safe custody. Second, persons who have been con-

victed of crime and have become insane while undergoing sentence in the State prisons and penitentiaries. Third, persons of the latter class whose terms of original sentence have expired, but who are detained because they are still insane.

It is urged by the State Commissioners in Lunacy and by the Superintendent of State prisons, that there should, as a matter of public policy and of physiological propriety, be a separation of the convicted and unconvicted classes. To this end, as well as with a view of relieving the congested condition of the hospital at Matteawan, I recommend to your consideration the erection on the State lands adjoining the Clinton State prison at Dannemora, of a plain and substantial asylum to accommodate insane convicts undergoing sentence and such of those who have served their sentences as it is not deemed advisable to retain in the same building with those who have not been convicted. The location of this building in the mountain region at Dannemora has much to commend it, on account of health, isolation and security of the inmates. The State owns the required site, and the stone for building, timber and lumber, can be procured from other adjacent State lands at the cost of cutting and hauling, and the work of constructing such a building could be almost wholly performed by the convicts of Clinton prison. By this plan there would be a large saving in cost, with the advantage of affording employment for the prisoners

The second branch of this topic which I desire to bring to your attention relates to an isolated prison house, to be erected for the confinement and execution of persons condemned to death. It is the opinion of the wardens of the State prisons that the confinement within those prisons of a number of condemned convicts awaiting execution has a depressing and injurious effect upon the *morale* of the other prisoners. A further important reason urged for the erection of such a building is that an approved electric plant could be installed, while all the other needs of such an establishment could be specially met. At present there are three sets of electric apparatus, one in each of the State prisons, no one of which has battery power or mechanical equipment sufficient to meet possible emergencies or accidents. So long as capital punishment is sanctioned by the law of the State, and inasmuch as the electrical mode of inflicting the penalty is believed to be the most humane, it seems proper that every measure should be adopted to inflict the penalty with the greatest certainty, privacy and celerity. It is suggested that the proposed capital prison should be erected in a central part of the State, convenient of access by railway from all other localities.

THE STATE PRISONS TO-DAY

The Superintendent of State Prisons will also give you the results of his experience and observation in

the management of the three State prisons proper. He reports that there was on November 30, 1895, a total of 2,062 prisoners in the three prisons, employed in twenty-two separate industries, being an average of ninety-four prisoners to each industry. The law of 1889, under which labor is now carried on in these prisons, is the best that has yet been devised, both as to the results attained by the employment, and by the limitation which it has imposed upon competition with private enterprise and industry. Whatever system may be adopted under the new constitutional restrictions must be based upon the principle that the labor on which the convicts are employed is useful and productive. This is necessary to their mental and physical well-being, and if a law can be enacted which will compel the public institutions of the State and its political subdivisions to buy from the prisons everything which they require for use and which can be manufactured by the labor of the prisoners, then, in the judgment of the Superintendent, a sufficient amount of work of a desirable kind can be provided to keep the working force of all the prisons, penitentiaries and reformatories employed. But the larger proportion of the articles required represents the product of but a few trades, and on these trades the burden of competition would probably fall unfairly. It is important that in the effort to diminish or do away with prison labor competition, as contemplated by the

constitutional amendment, such competition as must necessarily result be distributed amongst the largest possible number of vocations. It is manifest, nevertheless, that some trades can never be subjected to the competition of prison labor.

THE CANALS

The Legislature of 1895 passed a law providing for submitting to the people, at the general election in that year, the proposition to issue bonds of the State not to exceed nine millions of dollars, for the improvement of the Erie, the Champlain and the Oswego canals by deepening the Erie and Oswego canals to a depth of not less than nine feet and the Champlain to seven feet of water, and also lengthening and improving the locks, and strengthening the walls of the canals. The act was approved by the people by a very decisive vote, and the State was thereby committed to the improvement contemplated by the law. This law requires the Legislature annually to impose a tax of thirteen one-hundredths of a mill upon each dollar of valuation of real and personal property in the State subject to taxation, the proceeds of which, after paying the interest due upon the bonds, shall be invested by the Comptroller, under the direction of the Commissioners of the canal fund, and together with the interest arising therefrom shall be devoted to the sinking fund created for this purpose. Four millions of dollars

were appropriated by the act, and upon the sale of the bonds will be immediately available. The deepening and enlargement contemplated will doubtless greatly increase the capacity and usefulness of the canals. The greater depth of water and the strengthening of the embankments, walls and locks which will be effected, will permit a largely increased application of steam power, and thus not only admit vessels of greater draft and cargo capacity, but enable them to be moved with increased speed.

The recent experiments with electric motors for canal boat propulsion, made at the western end of the Erie canal, were so successful in character and results as to lead to the belief that when the system is applied to the entire canal it will increase its traffic capacity by at least 35 per cent. Viewing as a whole the many considerations embraced in this subject it may safely be suggested that it is one of great importance, and not only merits but will doubtless receive your most earnest attention.

I am informed that since 1883, the first year in which the canals were operated free of tolls, the average annual expenditure for their maintenance has been about \$1,000,000. Aside from the special improvement contemplated by the act above mentioned, the usual appropriation will probably be needed for ordinary maintenance.

Before taking leave of this subject it is not amiss

for me to express gratification at the fact that the administration of the canal system during the past year has been such as to win the approval of the people whose business interests are directly connected with the canal service. The old system of annoyances and the compulsory tribute levied by canal employees upon traffic have entirely ceased, and every facility which can properly be extended to the business community is rendered by the present service.

PUBLIC EDUCATION

I am informed by the State Superintendent of Public Instruction that the public school system of our State has shown steady growth and improvement during the past year. There has been a marked increase in the professional spirit of teachers, a deeper interest on the part of the public in the welfare of the schools and a greater activity in providing better school accommodations. These are hopeful indications.

The Compulsory Education Law which went into effect January 1, 1895, has been complied with throughout the State with a degree of unanimity which proves the interest which our citizens are taking in the question of our public schools. The biennial school census, which has just been completed, reveals the fact that this law is being enforced in the right spirit and for the best interests of the schools in nearly every section of our commonwealth.

At the last session of the Legislature you wisely provided that the United States flag should be displayed upon every school building in the State. This patriotic requirement has met with a ready response, and from nearly every school building in the State this object lesson of patriotism is daily displayed.

The biennial school census taken in accordance with your requirement of last year in all of the cities and villages of the State exceeding 10,000 in population, has revealed not only the necessity for additional school facilities but also other defects in the system, which you will be called upon to remedy during the present session.

While I am aware of the fact that upwards of four millions of dollars raised by direct State taxation is annually expended in the maintenance of our magnificent public school system, and that local taxation adds to this amount until its aggregate is upwards of twenty-one millions throughout the State at large, I am convinced that no expenditure is made in our State which makes for good citizenship so much as that which you will be called upon again to incur for the support of our public schools. The Empire State leads the Union in the magnitude of its provisions for the public schools.

The past year witnessed the occurrence of the one-hundredth anniversary of the inauguration of the free school system in the United States under the administration of Governor George Clinton.

Act, I. chapter 75, laws of 1795, provided that the sum of £20,000 should be annually appropriated, for the term of five years, "for the purpose of encouraging and maintaining schools in the several cities and towns in this State." The growth of the public school system since that date may be estimated by reference to the present expenditure for common school purposes above noted.

The Legislature has been uniformly generous in the provision which it has made for the schools of our State, and it is earnestly hoped that this spirit may continue to actuate you, to the end that with our great resources, our unrivaled advantages, and the intellectual equipment of our people, we may continue to lead in educational development.

CIVIL SERVICE

There has been a distinct and gratifying advance in the administration of the Civil Service law during the past year. Article 5. section 9, of the new Constitution brought into the State classification the Department of Public Works and the Prison Department, which of themselves added a large number of employees to the classified service. This amendment also established a new standard of classification by providing for competitive examinations wherever practicable. In pursuance of this provision many offices have been brought into the competitive schedule that were theretofore either exempt or filled by

means of non-competitive examinations. This schedule now includes nearly every character of service in the State, and the result of the examinations held justifies a still further extension of this principle.

The expenses of this branch of the public service have been very much augmented by reason of the extension above mentioned, and will be further increased when the classification is extended to counties and villages, as seems to be required by the Constitution. The appropriation of money remains substantially as it was when the original law passed, while the work of the department has greatly increased, and the last appropriation was exhausted before the beginning of the fiscal year. It is necessary that adequate appropriation be made in order that the provisions of the new Constitution may be carried out.

The adoption of the constitutional amendment relative to Civil Service has embodied in our fundamental law the principle that appointment and promotion in the public service shall be based solely upon fitness. This principle is now beyond discussion, and it only remains for the Legislature to pass such laws as shall provide for any defects in the present statutes. The State of New York now occupies an advanced position in Civil Service reform, and the friends of that movement, in their recent national convention, gave gratifying recognition of the fact.

THE BALLOT LAW

The ballot law enacted by the last Legislature, and under which the general election of 1895 was held, differed in many respects from any hitherto put into operation. It appears to have met generally with the approval of the people, though, as was to have been expected, the practical use of the system developed some features which seem to require amendment. The law should be amended in regard to the provision applying to cases where two or more persons are standing as candidates for the same office, so as to render it less difficult for the voter to express his exact choice, and thus diminish the danger of losing his vote. The provisions of the pre-existing election law (in relation to the duties of election officers), which were not revised by the act of 1895, also seem to require amendment, to the end that the duties and powers of these officers shall be defined with more precision. This is especially the case in regard to the duties of inspectors of elections. It appears to be somewhat strange, and is indeed surprising, that in many counties of the State there should have been few if any ballots rejected for errors of the voters, while in the cities of New York, Brooklyn and Buffalo the ballots rejected as defective were numerous. The provisions in regard to nominations by parties and independent bodies can doubtless also be revised in the interest of the voters. A careful and

painstaking revision of the whole act in the directions here indicated should render the present law one of the most effective, fair and simple that can be devised, and the Legislature holds no higher or more sacred power and owes no more important duty to the people than to perfect a law which shall preserve the integrity of the suffrage and facilitate its just operation.

THE EXCISE QUESTION

The question of regulating the sale of intoxicants will come before you for action and it is expected that many different measures will be offered for your consideration. I regard it as my duty to recommend such legislation as will measurably reduce the number of places in which intoxicating beverages shall be sold throughout the State. Statistics show that there is in this State a larger number of saloons in proportion to population than in any other whose statistics are available. Public opinion does not concur in the desirability of such distinction for our State. It is charged that the present excise law is a measure favorable to the liquor interests only; that private property is not protected from the aggressions of saloon influence, and that violators of the law have comparative immunity from the penalties which it prescribes. The latest complete returns of population and of licensed retail drinking-places in eight States show:

	Population census 1890,	Retail li- censes 1892.	Ratio.
New York.....	5,981,984	40,259	150
Pennsylvania	5,248,574	12,738	421
Massachusetts	2,233,407	5,124	436
Michigan.....	2,089,793	8,449	248
Illinois.....	3,818,536	18,406	205
Ohio.....	3,666,719	16,208	226
Georgia	1,834,366	2,125	863
Alabama	1,508,073	1,169	1,204

The average number of saloons in the United States, including the prohibition states, is one to every 278 of the population. Excluding New York State, the seven states above mentioned average about one licensed retail place per 317 inhabitants. I fully recognize the fact that while laws can do much toward the proper restriction and regulation of the liquor traffic, they cannot cure all the evils incidental to it. Nearly every conceivable method of dealing with it has been experimented with and tried practically in various nations or in the states of our Union. I am therefore disposed to recommend that the Legislature endeavor to formulate a law which shall as far as practicable embody the best features of the liquor laws now in successful operation in the various states; with a consistent aim toward reduction of the number of saloons in this State.

ROAD IMPROVEMENT

The subject of road improvement becomes more important year after year and is attracting steadily

increasing attention among the people. In September last a National Good Roads Conference was held at Atlanta, Georgia, and delegates were sent to it from a large number of states. New York was represented by a delegation whose members carried credentials which I granted to them upon the request and recommendation of various public bodies interested in the movement. A special Committee on Good Roads, which was also appointed by me with a view of inquiring into and considering this question, will make its report direct to your body. That report is believed to be satisfactory to the friends of road improvement, and will convey recommendations of measures for your consideration which comprise a progressive and comprehensive plan of improvement of the public highways. I am not unmindful however of the fact, that though there is a united popular sentiment as to the desirability of a good system of roads, and that there is a common interest in the common highways, there is a radical divergence of opinion as to the method of raising the funds necessary to provide such a system of travel and intercommunication. It is hoped that the Legislature will deal with this question in a broad-minded yet conservative and just way, so that the least possible injustice may be inflicted upon either individuals or communities in seeking and securing "the greatest good for the greatest number." The mercantile and agricultural communities are obviously

most deeply interested, and in some respects their interests, or at least their purposes and the methods of accomplishing those purposes, are at sharp variance. Still another important though quite modern interest is the large and increasing community of wheelmen. In dealing with this question you may consistently take into incidental consideration the subject of employing State and county convicts in public road-making as a means of compliance with the Constitutional amendment relating to prison labor.

STATE FOREST AND GAME PRESERVE

The policy which has been recently inaugurated of purchasing lands within the Adirondack forest preserve is one that is giving satisfaction to the people and should receive the consideration that its importance deserves. Unless these lands are acquired within a reasonable time, they can only be obtained at higher cost many years hence. The preservation of this vast wilderness in its present condition means the conservation of the greatest watershed in this State and one of the most important in this country. The rivers that have their source in this region depend upon this forest for their supplies. The woods and the mountainous character of this picturesque region also render it one of the best sanitariums in the world.

It is generally believed that the game laws of the State need amendment to the end that better pro-

tection of deer in the Adirondack region may be secured. Unusually large numbers of deer have been killed during the past season, and if this easy slaughter is not checked these animals will soon become extinct in this State. Two remedies are proposed by persons who are familiar with this question: First, a shorter season in which deer may be killed, and second, the prohibition of hunting deer with hounds and "floating." It is claimed by competent authorities that the hounding of deer and driving them into the lakes and ponds where they are easily killed is an unsportsmanlike butchery of a fine game animal. In view of the importance of this matter it will be wise to give due attention to the remedies that will be proposed for the preservation of deer in the great Adirondack forests.

STATE LAND SURVEY

The Superintendent of the State Land Survey reports that the survey of the State lands has been prosecuted during the year in a manner insuring the best practical results as well as scientific accuracy. The chief assistants employed have been representatives of the best engineering talent of the State—men whose work has given them distinction in the general practice of their profession. The boundaries of many of the larger tracts of land within the forest preserve have been monumented and nearly one hundred and fifty thousand acres of these lands have

been enclosed during the year, or about one-fifth of the present possessions of the State; and the work is still in progress. The topographical work has been kept apace with the survey of the boundaries, and the trigonometrical survey of the State has been extended with precision, with the aid of the best instruments and engineering talent available. This important work should receive the support of the Legislature as necessary to the preservation of the forests and the boundaries of lands.

TO PRESERVE THE PALISADES

The Legislature of 1895 created a Commission charged with the duty of inquiring into and reporting upon the feasibility of preserving from destruction the basaltic cliffs on the west bank of the Hudson river known as the Palisades. The State of New Jersey appointed a like Commission to take similar action as to the portion of the cliffs referred to which is within the territory of that State, and these two commissions have acted jointly in furtherance of the general purpose. It would be supererogatory to dwell at length here on the desirability of taking all proper measures to keep intact this beautiful and in some respects unique example of Nature's handiwork. It has long been a subject of public interest and the propriety, even the necessity, of prompt action for the protection of the cliffs is conceded. The Commission recommends legislation

necessary to the acquisition of the property by the Federal Government, with a view to making the Palisades and the plateau immediately west of the cliffs a national park reservation, adding to it the features of a military post and camping or mustering ground for both State and National troops. These general lines of recommendation are concurred in by the New Jersey Commission, and will be conveyed by that body to the Legislature of that State, so that joint action has been thus far agreed upon. A proposed bill for the carrying out of the general plan so far as this State is concerned has been prepared, together with the draft of a bill to be urged upon Congress at its present session, looking to the establishment of the proposed Federal reservation. The full report of our State Commission will be laid before you at once and I cordially recommend the subject to your careful attention and prompt action.

THE MEXICAN EXPOSITION

In September next our sister republic of Mexico will open to the world its first great National Exposition of Industries and Fine Arts in the city of Mexico. The enterprise is under governmental patronage and approval and the people of all the States of our Union have been invited to become exhibitors and competitors. The Governors of the various states are also requested to appoint suitable commissioners composed of representative citizens

who are interested in the development of trade and commerce and the cultivation of amicable relations between the two republics. The Governors of upwards of thirty states have accordingly appointed commissions of from five to twenty members, to promote, manage and otherwise stimulate the interests of their respective communities in the matter of securing proper and worthy representation of their industries, products and arts. I have recently designated three gentlemen, well known in business relations with Mexico, as a temporary committee to take up the preliminary work which such a commission will be called on to perform. This has been done with a view of gaining time, inasmuch as only eight months remain in which to perfect such measures as may be taken. I therefore recommend that a suitable bill be passed without delay providing for a commission of seven or more members, among whom should be included the temporary committee already designated, and which shall be known as the New York State commission for the Mexican Exposition. This Commission will be expected to serve without salary or compensation, but their ordinary and proper expenses and clerk hire should be provided for by the State. For the defrayment of the necessary expenditures an appropriation should be made sufficient to enable the State of New York to be worthily represented in this undertaking.

THE ATLANTA EXPOSITION

In connection with the subject of the display of the handiwork, products and enterprise of our State, it is gratifying to refer to the success which was attained by New York, through the labors of the commission which represented this State at the Cotton States and International Exposition which has just closed at Atlanta, Georgia. The New York exhibitors won twenty-four gold, fifty-two silver, sixty-three bronze medals, and numerous certificates of honorable mention, for the excellence of their displays. To the State of New York itself was awarded a diploma of honor and the gold medal offered "for most efficiently promoting the objects of the Exposition."

It was necessary that the States should have a headquarters building on the fair-grounds at Atlanta, and a durable and suitable structure was accordingly built on the property of the Piedmont Driving Club, whose grounds were included in the area occupied by the Exposition. The city of Atlanta already owns a part of the fair-ground and intends, as I am advised, at an early day to convert the entire site including the club grounds into a public park to be known as Piedmont Park. The site of the New York State building was more commanding and attractive than that of any other State headquarters. For the privilege of erecting it there the State is indebted to the

courtesy of the Piedmont Driving Club. It has been proposed therefore that the building be sold for a nominal consideration, and conveyed to that club, which is an incorporated body, so that the structure may remain as a memento to the people of Georgia from the State of New York, in the future park belonging to the city of Atlanta. To accomplish this object I recommend that a suitable law be passed authorizing and empowering the New York State Commission to transfer and convey to the Piedmont Driving Club the building erected and used by them during the Exposition.

COMPLETION OF THE CAPITOL

One year ago I recommended that steps be taken for the completion of the new Capitol by contract, and the Legislature passed an act providing for a commission to carry that recommendation into effect. The commission created by virtue of that act was empowered and directed to enter into a contract for the completion of the Capitol and its approaches, but it was permitted at its discretion to have certain parts of the work done by day-labor. The work thus far done under the supervision of this Commission and of Capitol Commissioner Perry, has been of a very satisfactory character. No contract has been entered into as yet; the delay having been caused by the necessity of giving most careful consideration to the plans and specifications for so important a work. The matter has so far progressed that the plans pre-

pared by Commissioner Perry have been examined and approved by the Commission, and proposals for bids have been called for by advertisement as required by the statutes. There is now a fair prospect that this great edifice, which has cost the people so much money and has been in process of construction for so many years, will be finished for some fixed amount of money and within a definite period of time.

THE GREATER NEW YORK

The proposed incorporation of a Greater New York is a subject upon which no definite action was taken by the Legislature at its last session. It is a matter that deeply concerns the interest and wishes of more than one-half of the population of the State, comprised in several contiguous municipalities. I recommend that earnest and careful consideration be given to the subject and that some conclusive action be taken regarding it at your present session.

EXTRAVAGANCE IN PUBLIC PRINTING

It is proper that your attention should be called to the enormous and unnecessarily large annual expenditure for public printing. From official figures it is ascertained that for the four fiscal years, 1892 to 1895, both inclusive, the total payments were almost \$1,000,000. Nearly \$100,000 of this sum was for the printing of the record of the Constitutional Convention, but excluding this item the annual average cost

for the years indicated was \$217,873. It is indisputable that a vast amount of unnecessary work is done each year by duplication of printed matters and the publication of large numbers of special reports and other matters in bound volumes and pamphlets, which are practically useless as to their intrinsic worth, or are sent out from the printing office in such numbers that they find their way by tons to the dealers in waste paper. As an instance a local dealer in old books recently advertised for sale sets of the five volumes containing the report of the testimony taken by the Lexow Committee, within a week after the report was issued from the press. This extravagant system is sustained by the forms and conditions of making the contracts for public printing, which are so devised that the general printing trade is practically excluded from competing at all, and the struggle for the contract is limited to a coterie of bidders who have controlled the work for many years. The great evil of the existing method of letting these contracts is the plausibility and ease with which their system of averaging or so-called "unbalanced bids" can be accepted. For some work recently performed for the University of the State of New York the sum of \$4,450 is charged and must be paid. The work as I am advised could have been done and was done prior to the present contract system at a cost of \$85, through "outside" printers, and had the officials of the University not been led to understand orally that the

work would not be charged for under the class, "blanks,"—which is included in the schedule covering the "unbalanced bids"—a plan would have been arranged to do the work without cost to the State, though it would have involved trouble to students and teachers and might have led to some little confusion. A form of proposals for bids for printing can and should be prepared which will be intelligible to the State officers whose duty it is to examine bids and award the contracts. As at present devised under the law, the forms of proposal are so worded that only a shrewd technical printer can comprehend the ultimate effect upon a contract let under their provisions. I therefore particularly recommend that the law be so amended as to reduce the making of State contracts for printing to a fair business basis.

LEGISLATIVE PROCEDURE

The Legislature of 1895 authorized the appointment of a commission of five persons who were directed to "investigate in relation to the organization and government of the Legislature, the introduction and progression of bills, and, generally, in relation to legislative business and methods," and report to the Governor any changes they might deem desirable in relation thereto. This commission has considered the subjects mentioned in the act and has made a report to the Governor recommending certain changes in legislative procedure which the

commissioners think will facilitate and simplify the transaction of legislative business. Some safeguards against hasty legislation were provided by the Constitution of 1894, and the beneficial effects of these constitutional provisions were apparent to all who had occasion to observe legislative procedure during the session of 1895. The principal changes suggested by the commission relate to the publication and introduction of private or local bills, and the preparation and revision of bills by legislative counsel. The report and recommendations of the commission will be submitted to the Legislature and will doubtless receive careful consideration.

I think an attempt should be made to limit and diminish the number of special statutes by the enactment of general laws embracing ample remedies and provisions for the relief of persons, corporations or communities, relative to subjects of a general character. Several statutes designed to accomplish this object have already been passed but have apparently failed to stop the flood of special legislation. It is found to be easier, and possibly in some cases cheaper, to apply to the Legislature for relief rather than to the court or other tribunal provided by general law, and the Legislature seems to be the subject of constant pressure, upon various excuses, to pass special laws; and even constitutional provisions intended to limit special legislation have often been evaded under the guise of a so-called general law.

While the amount of legislation of a State with such a large population and such great commercial and business interests as New York is not likely to be very small, its bulk I think can be very materially reduced by the adoption of general rules calculated to provide relief and meet the wants of those who find it necessary for the proper protection of their interests to seek legislative aid.

The Legislature of 1895 enacted the largest body of legislation in the history of the State. A large number of bills did not receive executive approval, but 1,045 became laws. Of this number 398, more than one-third, relate exclusively to the government and affairs of cities; 382 were special city laws; 152 affecting New York; 83 Brooklyn, and 147 the other cities. The Constitution required all of these bills to be submitted to the cities affected by them before the Governor acquired jurisdiction to act upon them. This submission imposed a large expense upon the cities, a considerable proportion of which could, I think, have been avoided by the consolidation of many of the bills. I suggest that it may be feasible to adopt general rules regulating the introduction and passage of bills affecting cities, by requiring a consolidation of bills affecting the same general subject.

Commissions were appointed under laws passed by the Legislature of 1895 to prepare and submit to the present Legislature, on or before

February 1, general laws relating to the property, government and affairs of cities of the second and third class, and also such amendments to existing laws as they might deem proper. If a general charter can be prepared suitable and adequate for cities of the second class, and another for cities of the third class, considerable special legislation relating to cities will probably be thereby avoided.

REVISION OF THE STATUTES

By chapter 289 of the laws of 1889, a commission was created for the purpose of revising the general statutes relating to the powers of boards of supervisors and local authorities of towns and villages; the organization, government and control of certain corporations; taxation, and the poor; and the commissioners were also authorized at their discretion to report bills for the revision of other general statutes. The commission, soon after its appointment, prepared a scheme of general revision embracing fifty-one chapters. Of this number, twenty-eight have already been passed, and I am informed that eight general bills will be submitted by the commission to the Legislature at its present session, relating to taxation, real property, domestic relations, care of the insane, care of the poor, charitable institutions, domestic commerce, and State finance; and also a general bill repealing a large number of statutes which have been superseded by later legislation, or

have become obsolete. These, with the bills already passed, embrace a large part of the more important statutes included in the scheme of revision. It is suggested that certain amendments to the Constitution, adopted in 1894, will render some of the proposed general laws unnecessary, and that the original scheme of revision will probably be somewhat modified. The Commissioners inform me that they will probably be able to present to the Legislature of 1898 a complete, revised, official edition of the general statutes, unless they are prevented from finishing this work by the labor involved in a revision of the Code of Civil Procedure.

By chapter 1036, laws of 1895, a commission was appointed charged with the duty of examining the practice in this State and the codes and practice acts and rules of court in other States and countries and reporting in what respects the civil procedure of this State can be revised, condensed and simplified. In order that the work of general revision might be carried forward systematically and harmoniously, the Commissioners of Statutory Revision were appointed to revise the Code. Their report as Commissioners of Code Revision has been printed and distributed to the members of the Legislature, and to others. From this report it seems that it was impracticable, within the time limited by the act, to prepare a revision such as the statute probably contemplated, and the com-

missioners suggest that they will not be able to present such a revision until 1897.

The Legislature of 1891 directed the Commissioners of Statutory Revision to republish verbatim, preserving the original spelling and punctuation, the statutes of the colony of New York from the foundation thereof to the adoption of the first Constitution of the State. This work is nearly completed, and the colonial laws thus republished will probably be distributed during the present session of the Legislature. By this publication, early colonial records which are now quite rare and not easily accessible, will be preserved and placed within the reach of all our people.

In closing this message, I take the opportunity of saying that the affairs of the State are in a generally prosperous condition, a fact which must be gratifying to the whole people. It has not been deemed necessary to refer here to all departments of the State government, but only to those whose affairs seemed to require special consideration. I have reason to believe that all of the departments are being well conducted in compliance with law, and their respective detailed reports will probably convey to you all the information which may be desired.

LEVI P. MORTON

DESIGNATION OF JUSTICE HATCH AS
ASSOCIATE JUSTICE OF THE APPEL-
LATE DIVISION OF THE SECOND DE-
PARTMENT

STATE OF NEW YORK

Executive Chamber

In accordance with section two of article six of the Constitution the Honorable Edward W. Hatch of the city of Buffalo who is a Justice of the Supreme Court of the Eighth Judicial District is hereby designated as Associate Justice of the Appellate Division of the Supreme Court in and for the Second Judicial Department for the term ending December thirty-first 1900.

Given under my hand and the Privy Seal of
the State at the Capitol in the city of
[L s] Albany this first day of January in the
year of our Lord one thousand eight
hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

MATTER OF TAMSEN, SHERIFF — NOTICE
AND SUMMONS

STATE OF NEW YORK

Executive Chamber

*In the matter of the charges preferred against Edward
J. H. Tamsen the Sheriff of the City and County of
New York — Notice and summons*

*To EDWARD J. H. TAMSEN the Sheriff of the City and
County of New York :*

You are hereby notified that charges of misconduct and malfeasance in office have been preferred against you by Henry Grasse, W. Brockner, George B. Brown, Alfred R. Page, George Young, George M. Dusenberry and others of the city and county of New York in this State and a copy of said charges is herewith served upon you.

You are therefore required to show cause why you should not be removed from the office of sheriff of the city and county of New York and to answer the said charges within eight days after service of this order and a copy of said charges upon you.

In witness whereof I have signed my name
and affixed the Privy Seal of the State
[L s] at the Capitol in the city of Albany this
sixteenth day of January in the year of

our Lord one thousand eight hundred
and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

APPOINTMENT OF AN EXTRAORDINARY
SPECIAL TERM OF THE SUPREME
COURT TO BE HELD AT COOPERSTOWN

STATE OF NEW YORK

Executive Chamber

It appearing to my satisfaction that the public interest requires it,

Therefore, In accordance with the statute in such case made and provided I do hereby appoint an Extraordinary Special Term of the Supreme Court to be held at the court house in the village of Cooperstown and county of Otsego on Monday the twenty-seventh day of January 1896 at ten o'clock in the forenoon of that day, said Extraordinary Special Term to be held in connection with the trial term appointed to be held at such time and place and to continue so long as may be necessary for the disposal of the business which may be brought before it ; and

I do hereby designate the

Honorable BURR MATTICE

of the village of Cooperstown who is a justice of the

Supreme Court of this State to hold the said Extraordinary Special Term as hereinbefore described ; and

I do further direct that notice of such appointment be given by publication once in the *Oneonta Herald* newspaper, published in said county of Otsego.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
 [L s] Albany this twenty first day of January in the year of our Lord one thousand eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

DESIGNATION OF JUSTICE WARD AS
 ASSOCIATE JUSTICE OF THE APPELLATE
 DIVISION FOR THE FOURTH DEPARTMENT

STATE OF NEW YORK

Executive Chamber

It appearing to my satisfaction that the public interest requires it,

Therefore, in accordance with the Constitution and the statute in such case made and provided I do hereby designate the

Honorable HAMILTON WARD

of Belmont who is a Justice of the Supreme Court

in and for the Eighth Judicial District as Associate Justice of the Appellate Division of the Supreme Court for the Fourth Department to sit during the absence therefrom of the Honorable WILLIAM RUMSEY who was heretofore designated as an associate justice thereof.

Given under my hand and the Privy Seal of
the State at the Capitol in the city of
[L S] Albany this twenty-first day of January
in the year of our Lord one thousand
eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

MESSAGE URGING ECONOMY IN MAKING APPROPRIATIONS OF PUBLIC MONEYS.

STATE OF NEW YORK

Executive Chamber

Albany, January 22, 1896

TO THE LEGISLATURE :

I desire at this early period in your session to call attention to the necessity for the strictest economy in the appropriation of public moneys. The files of bills thus far introduced show that appropriations aggregating more than two and a half millions of

dollars are now pending before you, although but ten days of the legislative session have expired.

Recognizing clearly the powers conferred upon the executive and legislative branches of the government under the Constitution, and with no desire to infringe upon the prerogatives of the Legislature, it nevertheless becomes my obvious duty to say that this amount seems excessive, especially in view of the fact that the appropriation and supply bills—the great financial bills of the session—have not yet been prepared.

It is probable that in view of public sentiment, decisively expressed, some provision will be made at the present session for transferring the care of the dependent insane in the county of New York to the State at large. Should this be done, it will necessitate a fixed addition to the tax rate of one-third of a mill, or \$1,431,000. The people of the State have also, by the adoption of an amendment to the Constitution at the last election, provided for the creation of a debt of \$9,000,000, for the improvement of the canals, and chapter 79 of the laws of 1895 imposes a further annual addition to the tax rate of thirteen one-hundredths of a mill for the creation of a sinking fund and the payment of the interest upon this debt. It seems probable that under any circumstances the State will find it difficult to avoid increasing its tax levy, year by year, in view of the additional burdens which have been assumed by the State.

Upon this aspect of the situation I deem it proper to bring especially to your notice a passage from the report of the Comptroller for the year of 1895, in which he refers to "the tendency of the State to build up a gigantic system of expenditures in various directions," in these words :

" It may be as well for the people to know now as later that a result of this policy will be that a low tax rate can never be had in this State again, unless new sources of revenue are discovered. The care of the charities, including the pauper insane, the care of the school system, the militia, the canals and the judiciary, under the new Constitution, will present certain fixed charges which will render a low tax rate impossible. These items in the future will not fall much, if any, below the following amounts per annum :

Charity (including pauper insane)	\$6,000,000
School system	4,800,000
Militia (exclusive of betterments)	600,000
Canal maintenance	800,000
Judges' salaries	500,000
	<hr/>
	\$12,700,000
	<hr/> <hr/>

" These five items alone, which are more likely to increase with the years than to decrease, represent a tax rate of 2.96 mills on the dollar. The State prisons cost the people at present \$500,000 per annum in round numbers; but when the provision of the new

Constitution which relates to the employment of prisoners in the penal institutions, goes into effect next year, there will be a very large increase in this item. It may not be out of place here to say that the total cost of government for this State in 1862, including the schools, was only a trifle more than the amount paid for charities this year."

The people have endured a long period of business depression and waited in vain for that return of prosperity which was so confidently expected, and as a consequence the burden of taxation rests with more than usual severity upon them. It is felt alike by the farmer, the artisan, the laborer, the merchant and the investor.

While the Legislature should at all times avoid unnecessary and excessive appropriations of public money, and require the strictest economy consistent with good administration in every branch of the public service, there is to-day a special reason why this principle should be carefully applied. It is always essential that the affairs of Government should be managed with that degree of economy and zeal which achieves success in the management of private business, yet it is urgently desirable in these days of mercantile and industrial inactivity that no unnecessary burden shall fall upon the tax payers. As guardians of the public interests and custodians of the public funds, the paramount question should be when considering the appropriation of the people's

money—Can this expenditure be deferred without injury to the public interests until business shall have resumed its normal activity ?

The bills already before your respective houses disclose a disposition to authorize or at least to ask for considerable expenditures for new construction, such as for armories, normal schools and other State institutions. There may be reasons in particular localities which seem to justify these demands, but it is to be gravely considered whether these local needs are so pressing that they shall be allowed in their aggregate to considerably augment the financial requirements of the State, and thus add to the sum of taxation. To yield to this pressure would seem to violate that maxim which holds that “the greatest good to the greatest number” is the true aim of popular government. I therefore earnestly urge deliberate action, and recommend that expenditures for construction be confined as closely as possible to the maintenance and preservation of existing property of the State, to the end that there shall be watchful but discreet economy in all matters of taxation. Your purpose to conserve the best interests of the State is conceded, and in no way can you more richly merit the approval of the people, or justify your own consciences than by earnestly striving for that result.

LEVI P. MORTON

PROCLAMATION OF SPECIAL ELECTION
IN THE SEVENTEENTH ASSEMBLY DIS-
TRICT OF NEW YORK CITY

STATE OF NEW YORK

Executive Chamber

WHEREAS Due notice has been given of the death of Patrick J. Kerrigan who was duly elected to the office of Member of Assembly for the Seventeenth Assembly District of the city and county of New York on the fifth day of November in the year 1895; and

WHEREAS His death occurred before the commencement of his official term and said office is now vacant; and

WHEREAS It is provided by the laws of this State that in such case a special election shall be had;

Now therefore, I, LEVI P. MORTON, Governor of the State of New York, in pursuance of the requirement of section 4 of chapter 680 of the laws of 1892 known as The Election Law do hereby order and proclaim that an election for Member of Assembly in the place of the said Patrick J. Kerrigan be held in the Seventeenth Assembly District of the city and county of New York on Tuesday the twenty-fifth day of February, 1896, such election to be conducted in the mode prescribed by law for the election of members of Assembly.

Given under my hand and the Privy Seal of
 the State at the Capitol in the city of
 [L s] Albany this twenty-fifth day of January
 in the year of our Lord one thousand
 eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE

Private Secretary

PROCLAMATION OF SPECIAL ELECTION
 IN THE SEVENTEENTH ASSEMBLY DIS-
 TRICT OF NEW YORK CITY AND REVO-
 CATION OF PRIOR PROCLAMATION

STATE OF NEW YORK

Executive Chamber

WHEREAS A vancacy exists in the office of Member
 of Assembly for the Seventeenth Assembly District
 of the city and county of New York caused by the
 death of Patrick J. Kerrigan before the commence-
 ment of the official term for which he was elected;
 and

WHEREAS It is provided by the laws of this State
 that in such case a special election shall be had; and

WHEREAS A proclamation was issued by me on the
 twenty-fifth day of January instant appointing an
 election to be held in the said Seventeenth Assembly

District of the city and county of New York on Tuesday, the twenty-fifth day of February next; and

WHEREAS It now appears to my satisfaction that the date fixed for such election does not permit of sufficient time for the proper holding of primaries and conventions and the subsequent filing of nominations in accordance with law;

Now therefore, I do hereby revoke and annul the aforementioned proclamation of date January the twenty-fifth 1896 as aforesaid and I, LEVI P. MORTON, Governor of the State of New York, in pursuance of the requirements of section 4 of chapter 680 of the laws of 1892 known as The Election Law do hereby order and proclaim that an election for Member of Assembly in the place of the said Patrick J. Kerrigan be held in the Seventeenth Assembly District of the city and county of New York on Tuesday the third day of March, 1896, such election to be conducted in the mode prescribed by law for the election of members of Assembly.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this twenty-eighth day of January in the year of our Lord one thousand eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

ASSIGNMENT OF JUSTICE BRADLEY TO
DUTY IN THE SUPREME COURT

STATE OF NEW YORK

Executive Chamber

WHEREAS The term of office of the Honorable George B. Bradley as Justice of the Supreme Court in and for the Seventh Judicial district having been abridged on the thirty-first day of December last by the limitation of age prescribed by section 12 of article VI of the Constitution and he having thereby become entitled to continue to receive for the remainder of the term for which he was elected to wit until the thirty-first day of December in the year 1897 the compensation established by law and which compensation is now being received by him ; and

WHEREAS He having consented to be assigned by the Governor to the duty in the Supreme Court which is hereinafter specified and it appearing to my satisfaction that the public interest requires it ;

Therefore By virtue of the power conferred upon me by section 12 of article VI of the Constitution and upon the filing of his written consent to such assignment I do hereby assign the

HONORABLE GEORGE B. BRADLEY

to preside at and hold the adjourned equity trial term of the Supreme Court heretofore duly ap-

pointed to be held at the City and County Hall in the city of Buffalo in and for the county of Erie in the Eighth Judicial district and which has been adjourned until the tenth day of this current month of February; said term to be continued so long as may be necessary for the disposal of the business that may be brought before it.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
 [L s] Albany this sixth day of February in the year of our Lord one thousand eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

APPOINTMENT OF AN EXTRAORDINARY
 SPECIAL TERM OF THE SUPREME
 COURT AT AUBURN

STATE OF NEW YORK

Executive Chamber

IT APPEARING to my satisfaction that the public interest requires it,

Therefore In accordance with the statute in such case made and provided I do hereby appoint an extraordinary Special Term of the Supreme Court to

be held at the court-house in the city of Auburn and county of Cayuga on Wednesday the fourth day of March next at ten o'clock of the forenoon of that day and to continue so long as may be necessary for the disposal of the business which may be brought before it ; and

I do hereby designate the

Honorable JAMES W. DUNWELL
of the village of Lyons who is a Justice of the Supreme Court of this State to hold the said extraordinary Special Term as hereinbefore described ; and

I do further direct that notice of such appointment be given by publication of this order once in each week for two successive weeks in the *Daily Advertiser* newspaper published in the said city of Auburn.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[Ls] Albany this sixth day of February in the year of our Lord one thousand eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

MEMORANDUM FILED WITH ASSEMBLY
BILL INTRODUCTORY No. 173 RELATIVE
TO CANCELLING THE AUTHORITY OF
FOREIGN INSURANCE COMPANIES—APPROVED

STATE OF NEW YORK

Executive Chamber

Albany, February 17, 1896

Memorandum filed with Assembly bill introductory number 173 entitled "An Act to amend the insurance law relative to the cancelling of the authority of foreign companies"—Approved

This bill seeks to amend section 33 of the insurance law by adding a provision for the cancellation of the authority of foreign insurance companies, whenever a company organized under the laws of this State is excluded from a foreign country and is prohibited from transacting business therein, after its compliance with reasonable laws relating to deposits of money or securities with the government of such country. The immediate occasion of the passage of this bill is said to be the difficulties or obstructions encountered by several New York life insurance companies in transacting their business in a certain foreign country; and it is alleged and not denied that these companies had complied, or offered to comply, with the demands made upon them; but

that notwithstanding this compliance they were arbitrarily excluded and prohibited from transacting business in that country. They had been for several years engaged in business there, and it is not claimed that they had failed to comply with any of the requirements imposed upon them by the government of that country. Their exclusion, under the circumstances, seems to justify some action by the Legislature, and this bill was prepared for the purpose of providing means to enable the Insurance Department to properly protect our home corporations by requiring the Superintendent to exclude foreign corporations from the privilege of transacting business here, when the like privilege is denied to our companies desiring to transact business in a foreign country. While retaliatory legislation is not usually to be commended, it should be enacted for the purposes of self-defense and the protection of our business interests, whenever it appears that any other State or country is unwilling to accord to our citizens reasonable reciprocal privileges within its dominions. It seems only reasonable that foreign corporations should not be permitted to do business here when the government under which they are organized denies to our corporations like privileges. To take no notice of the exclusion of our companies under the circumstances indicated would imply lack of patriotism and self-respect on the part of our people. The Legislature has seen fit, by the vote of a large

majority, to give this matter attention by the passage of this bill, and this exercise of legislative judgment is I think proper and should be approved.

It is urged in opposition to the bill that it is too broad; that it gives the Superintendent of the Insurance Department no discretion beyond the consideration of two given subjects, and that it will be harmful to the business interests of the State. Our State already has a well defined policy concerning foreign insurance companies. The law provides that "the Superintendent may refuse to issue any certificate to a foreign corporation if, in his judgment, such refusal will best promote the interests of the people of the State." This vests the Superintendent with very large discretion, and he might perhaps under this authority refuse a certificate to a foreign corporation applying to do business in this State; but it does not give him any authority to cancel existing certificates. Foreign insurance companies are required to make large deposits before commencing business in this State, and the Superintendent is authorized to examine the assets, books, accounts and general condition of such corporations. He may even visit the general office of such foreign corporations, wherever located, investigate and examine its affairs and condition, and cancel and revoke its certificate, if it unreasonably refuses or neglects to comply with the law, or allow such examinations to be made.

The certificate of authority granted to a foreign corporation remains in force only one year, and it cannot be renewed unless the Superintendent is satisfied that the capital, securities and investments remain secure, and that the company may be safely entrusted with a continuance of its authority to do business, and when he is so satisfied it is his duty to grant a renewal of such certificate. Specific taxes are also imposed upon the business of certain foreign insurance corporations, which are devoted to special purposes. The section of the law which this bill seeks to amend relates to reciprocal requirements between this State and other States, concerning burdens which may be imposed upon insurance corporations organized under the laws of this State, doing business in other States, and requires the Superintendent to impose upon insurance corporations of other States the same burdens which are imposed upon New York corporations doing business in such States. The amendment now under consideration extends this principle to our relations with foreign governments by requiring the cancellation of the authority of foreign insurance companies whenever our companies are not permitted to do business in the country where such foreign corporations are organized. Objection is also made to this bill that it gives no discretion to the Superintendent beyond the consideration of the subject of a deposit of money or securities with a foreign government by a New

York company, and that if such government deems it proper to impose other limitations or restrictions as a condition of carrying on business there, and the company declines to comply with such additional limitations and restrictions and withdraws from such country in consequence thereof, it may apply to the Superintendent for an order cancelling the authority of every company organized under the laws of such foreign government and licensed to do business in this State, and that it will thereupon be his imperative duty to cancel such authority. Possibly the bill is literally capable of this construction, but a New York company which is unwilling to comply with reasonable regulations imposed by a foreign government, even in addition to those mentioned in this bill, would be entitled to little consideration by the Insurance Department and would receive scant sympathy from our people. The bill is evidently designed to reach only extreme cases, and it is likely to be only such cases that will come to the attention of the Insurance Department. If a practical application of the law shows that it is liable to abuse and that the aid of the Insurance Department is invoked to procure the cancellation of the authority of foreign companies under unreasonable or unworthy circumstances, the good sense of the Legislature may be trusted to make such amendment to the law as experience may wisely suggest. The opponents of the bill also claimed that it will seriously affect the business inter-

ests of the State by depriving our people of the opportunity to obtain adequate fire insurance. This objection comes from large commercial interests, and the protest is certainly entitled to serious consideration, but an examination of the subject leads me to think that the possible harmful results are over-estimated, and that no such mischief will ensue as is predicted by those who object to the bill. The law can probably have no retroactive effect, so as to authorize the Superintendent to cancel the authority of foreign companies, upon an application based upon an order already made by a foreign government, and his aid can only be invoked in case of a refusal of an application hereafter made by a New York company for permission to transact its business in a foreign country. Whether such an application will be made by a New York company to a foreign government, and whether if made it will be refused, can only be conjectured. It cannot be assumed in advance, and the bare possibility of such a result is not sufficient reason for the disapproval of the measure, which in its general scope is proper for the protection of New York corporations. Besides, the present insurance law permits our citizens to obtain insurance from corporations which are not authorized to do business in this State upon filing with the Superintendent and county clerk an affidavit to the effect that, after diligent effort, they are unable to procure the amount of insurance required to protect the property owned

or controlled by them from the insurance corporations authorized to transact business in this State. This additional insurance is obtained through agents licensed by the Superintendent for this express purpose. This provision of our law authorizes foreign insurance companies to do business here to a limited extent, without procuring a certificate of authority from the Superintendent, and enables our people to avail themselves of these companies, although they have not fully complied with our law. The limited number of affidavits for this class of insurance, filed in the Insurance Department, shows that the available regular insurance is practically sufficient. The probability of the exclusion of any foreign companies under this bill is I think very remote, but even if a few of the companies now doing business in this State shall be excluded under the operation of this law, it seems quite clear that there will continue to be enough regular insurance, in addition to that which might be obtained under the law last cited, to accommodate the needs of our people. The justness of the principle embodied in this bill is almost universally conceded by those who have given it attention during its Executive consideration, and while some objections to the measure might be removed by its modification in form and scope, these do not seem to be of sufficient importance to require the return of the bill to the Legislature for that purpose. The bill is therefore approved.

LEVI P. MORTON

MATTER OF TAMSEN, SHERIFF—APPOINTMENT OF A COMMISSIONER TO TAKE TESTIMONY

STATE OF NEW YORK

Executive Chamber

In the matter of the charges preferred against Edward J. H. Tamsen the sheriff of the city and county of New York

Charges having been preferred against *Edward J. H. Tamsen* the sheriff of the city and county of New York by Henry Grasse, W. Brockner and other residents of the said city and county of New York and a copy thereof having been served upon the said sheriff with notice to show cause why he should not be removed from such office and the said Edward J. H. Tamsen having filed his answer to the charges preferred therein ;

I do hereby appoint the Honorable WILLIAM H ROBERTSON of Katonah in the county of Westchester the commissioner to take testimony and the examination of witnesses as to the truth of said charges and to report the same to me and also the material facts which he deems to be established by the evidence ; and

It is hereby ordered that the Attorney-General of the State of New York conduct the inquiry and examination in the prosecution of the said charges ; and

It is hereby further ordered that the said examination before such commissioner proceed with all convenient speed.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this eighteenth day of February in the year of our Lord one thousand eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

ASSIGNMENT OF JUSTICE BRADLEY
TO THE SUPREME COURT IN THE
SEVENTH JUDICIAL DISTRICT

STATE OF NEW YORK

Executive Chamber

WHEREAS The term of office of the Honorable George B. Bradley as Justice of the Supreme Court in and for the Seventh Judicial District having been abridged on the thirty-first day of December last by the limitation of age prescribed by section twelve of article six of the Constitution and he having thereby become entitled to continue to receive for the remainder of the term for which he was elected, to wit, until the thirty-first day of December in the year 1897, the compensation established by law and

which compensation is now being received by him ;
and

WHEREAS He having consented to be assigned by the Governor to the duty in the Supreme Court which is hereinafter specified and it appearing to my satisfaction that the public interest requires it ;

Therefore By virtue of the power conferred upon me by section twelve of article six of the Constitution and upon the filing of his written consent to such assignment I do hereby assign the

HONORABLE GEORGE B. BRADLEY

to preside at and hold any regular special term of the Supreme Court duly appointed to be held in and for the Seventh Judicial District in the absence of the justice assigned to hold the same, for and during the term ending December thirty-first 1896 ; and I also hereby assign him to any duty in the Supreme Court at chambers or out of court which he might lawfully have performed if his term of office had not been abridged as aforesaid.

Given under my hand and the Privy Seal of
the State at the Capitol in the city of
[L s] Albany this twenty-first day of February
in the year of our Lord one thousand
eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

APPOINTMENT OF EXTRAORDINARY
SPECIAL TERMS OF THE SUPREME
COURT AT CORNING

STATE OF NEW YORK

Executive Chamber

It appearing to my satisfaction that the public interest requires it,

Therefore in accordance with the statute in such case made and provided I do hereby appoint Extraordinary Special Terms of the Supreme Court to be held at the court-house in the city of Corning in the county of Steuben on Saturday the seventh day of March 1896, and on each and every Saturday thereafter at ten o'clock in the forenoon for and during the term ending December 31, 1896, said special terms to be continued so long as may be necessary for the disposal of the business which may be brought before them; and

I do hereby designate and assign to hold each of said Extraordinary Special Terms of the Supreme Court the Honorable George B. Bradley a justice of the Supreme Court in and for the Seventh Judicial District whose term of office has been abridged pursuant to the provisions of section 12 of article VI of the Constitution but who has consented to be assigned by me to hold said Extraordinary Special Terms; and

I do further direct that notice of the appointment aforesaid be given by publication of this order once in each week for two successive weeks prior to said seventh day of March 1896 in the *Corning Journal* newspaper published in the said city of Corning and by filing a copy thereof on or before the twenty-fifth day of February instant in the office of the clerk of each county in the Seventh Judicial District.

Given under my hand and the Privy Seal of the State at the Capitol in the city of Albany this twenty-first day of February in the year of our Lord one thousand eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

APPOINTMENT OF AN EXTRAORDINARY
TRIAL TERM OF THE SUPREME COURT
AT WARSAW

STATE OF NEW YORK

Executive Chamber

It appearing to my satisfaction that the public interest requires it,

Therefore in accordance with the statute in such case made and provided I do hereby appoint an Ex-

traordinary Trial Term of the Supreme Court to be held at the court-house in the village of Warsaw and county of Wyoming on Monday the twenty-third day of March next, at ten o'clock of the forenoon of that day and to continue so long as may be necessary for the disposal of the business which may be brought before it; and

I do hereby designate the

HONORABLE HENRY A. CHILDS

of the village of Medina who is a Justice of the Supreme Court of this State to hold the said Extraordinary Trial Term as hereinbefore described; and

I do further direct that notice of such appointment be given by publication of this order once each week for two successive weeks in the *Western New Yorker* newspaper published in the said village of Warsaw.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this twenty-fifth day of February in the year of our Lord one thousand eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

ASSIGNMENT OF JUSTICE LEWIS TO
DUTY IN THE SUPREME COURT,
EIGHTH JUDICIAL DISTRICT

STATE OF NEW YORK

Executive Chamber

WHEREAS The term of office of the Honorable LORAN L. LEWIS as Justice of the Supreme Court in and for the Eighth Judicial District having been abridged on the thirty-first day of December last by the limitation of age prescribed by section twelve of article six of the Constitution and he having thereby become entitled to continue to receive for the remainder of the term for which he was elected, to wit, until the thirty-first day of December in the year 1897 the compensation established by law and which compensation is now being received by him ; and

WHEREAS He having consented to be assigned by the Governor to the duty in the Supreme Court which is hereinafter specified and it appearing to my satisfaction that the public interest requires it ;

Therefore By virtue of the power conferred upon me by section twelve of article six of the Constitution and upon the filing of his written consent to such assignment I do hereby assign the

Honorable LORAN L. LEWIS

to preside at and hold the regular special and trial term of the Supreme Court heretofore duly ap-

pointed to be held at Mayville in the county of Chautauqua in the Eighth Judicial District on the first Monday of May 1896.

Given under my hand and the Privy Seal of the State at the Capitol in the city of Albany this twenty-ninth day of February in the year of our Lord one thousand eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

ASSIGNMENT OF JUSTICE BRADLEY TO
DUTY IN THE SUPREME COURT,
SEVENTH JUDICIAL DISTRICT

STATE OF NEW YORK

Executive Chamber

WHEREAS The term of office of the Honorable GEORGE B. BRADLEY as Justice of the Supreme Court in and for the Seventh Judicial District having been abridged on the thirty-first day of December last by the limitation of age prescribed by section twelve of article six of the Constitution and he having thereby become entitled to continue to receive for the remainder of the term for which he was elected, to wit, until the thirty-first day of December

in the year 1897 the compensation established by law and which compensation is now being received by him ; and

WHEREAS He having consented to be assigned by the Governor to the duty in the Supreme Court which is hereinafter specified and it appearing to my satisfaction that the public interest requires it ;

Therefore By virtue of the power conferred upon me by section twelve of article six of the Constitution and upon the filing of his written consent to such assignment I do hereby assign the

Honorable GEORGE B. BRADLEY

to preside at and hold the Special Term of the Supreme Court for the trial of equity causes heretofore duly appointed to be held at Penn Yan, in the county of Yates in the Seventh Judicial District on Monday the sixteenth day of March 1896.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this second day of March in the year of our Lord one thousand eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

APPOINTMENT OF COMMISSIONER TO
EXAMINE AS TO THE SANITY OF CARL
FEIGENBAUM, CONVICT

STATE OF NEW YORK

Executive Chamber

I hereby appoint Carlos F. Mac Dondald, M. D., of the city of New York the commissioner to examine Carl Feigenbaum, now confined in Sing Sing Prison under sentence of death, and to report his conclusion as to said Feigenbaum's sanity, such report to be made to me in writing.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L s] Albany this sixth day of March in the year of our Lord one thousand eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

MESSAGE RELATING TO THE PUBLIC
SCHOOLS OF NEW YORK CITY

STATE OF NEW YORK

Executive Chamber

Albany, March 20, 1896

TO THE LEGISLATURE :

For a number of years there has been a strong and constantly growing sentiment in the city of New York in favor of a reform in the public school system of that city. It has been conceded by all persons who are familiar with the subject that the laws relating thereto were in need of revision. While there have been frequent amendments, the general scheme has remained unchanged, though it was adopted when practically the whole city lay below Fourteenth street, and the upper portion was a sparsely settled and almost rural community. The law divides the responsibility for the educational system between the Board of Education (appointed by the mayor from the city at large) and twenty-four local boards of School Trustees (appointed by the Board of Education from each of the wards in the city), the trustees being charged with the employment of teachers.

The plan was not an unusual one in the cities of the State at the time of its adoption, but has long since been discarded by the other cities; while strange to say it is retained in the metropolis, to

the needs and conditions of which it is more ill-adapted than perhaps to any community. The attention of the Legislature has for several years been called to the subject, but for one reason or another no practical results have been achieved. The people of our first city are entitled to primacy in the great bulwark of our institutions, the common school. A subject so close to the citizen as the education of his children, demands the patriotic and elevated consideration of the law-making power.

A comprehensive bill covering the administration of the public schools in the city of New York has been introduced, retaining, with somewhat limited powers, the trustees; another bill, proposing nothing new for the system except the abolition of the trustees, has been offered. The Senate Committee on Cities having these bills in charge has reported to that House a bill containing the provisions of the first-mentioned bill but abolishing the trustees and investing their powers and duties in the Board of Education.

The Committee bill has met with general approbation, including the earnest support of the metropolitan press, of a large number of thoughtful women and men and of educators whose experience and qualifications make their judgment valuable. No opposition as far as I am aware has developed except that offered by persons directly or indirectly connected with the present system.

The existing law is antiquated and wholly inadequate. The division of duty leads to confusion and uncertainty in administration and renders it difficult to fix responsibility.

It is respectfully suggested that any measure that retains the Ward Trustee plan must fail of accomplishing the ends desired.

I appeal to the Legislature to promptly enact a law abolishing the trustee system and making enlightened provision for the efficient government of the public schools on lines in keeping with the most approved methods and modern thought on this vital question. The importance of this subject and the advanced stage of the session constrain me to communicate my views in this manner to the Legislature.

LEVI P. MORTON

MEMORANDUM FILED WITH SENATE
BILL No. 791 REGULATING THE TRAF-
FIC IN LIQUORS — "THE RAINES BILL"
—APPROVED

STATE OF NEW YORK

Executive Chamber

Albany, March 23, 1896

*Memorandum filed with Senate bill number 791 en-
titled "An act in relation to the traffic in liquors,
and for the taxation and regulation of the same,
and to provide for local option, constituting chapter
twenty-nine of the general laws"—Approved*

In considering this bill, the first question that de-
mands attention is one of jurisdiction. Objection is
made that the bill is not now properly under Execu-
tive consideration for the reason that it has not been
submitted to various cities for their acceptance.

It is urged that the bill is "a special city bill"
within the meaning of section 2 of article XII of the
Constitution, and that Executive jurisdiction can only
be acquired after its transmission to the cities affected,
and their action thereon. It seems quite apparent
that the bill is general in the sense that it applies to
all parts of the State. Every town, village, city and
county is affected by it, and it is intended to be a
general and complete scheme upon the subject of the
regulation of the liquor traffic. It is also I think

general within the meaning of the Constitution, because it relates to all cities of each class. The Constitution expressly says that "special city laws are those which relate to a single city, or to less than all the cities of a class." The amount of tax imposed upon the liquor traffic varied in different cities, and the amount of revenue which cities may derive from the liquor traffic also varies, but the ratio of distribution of the liquor tax is uniform. The tax however is assessed upon the individual, and the city has no interest in it until it is paid to the county treasurer or other proper officer. The lack of uniformity in the provisions of a bill intended to be general does not make it a special city bill within the meaning of the Constitution, unless it contains provisions relating specifically to a particular city. In fixing the rates of taxation, the Legislature might have adopted the classification of cities prescribed by the Constitution, but it chose to create an artificial classification, which has had the effect of making a different rate of taxation in cities belonging to the same constitutional class. Such artificial classification is not objectionable, and does not alone render the bill subject to action by the cities.

It should also be observed that this bill is not to be construed as if it named all the cities of the State and prescribed the tax to be imposed upon the liquor traffic carried on in each of them. The bill evidently contemplates a continuous, elastic and changeable

scheme of taxation, varying from time to time according to population, so that after an enumeration of inhabitants as prescribed by the Constitution, a new classification of cities and villages for the purposes of this tax will be made, and cities and villages in which under present conditions a given rate is imposed, will be placed in another class, and the rate of taxation will be higher or lower, according as the population is shown to have increased or diminished. Other cities and villages will also probably be incorporated and must be classified according to their population. It will hardly be claimed that after each enumeration and consequent new classification the cities would have the right again to express their approval or disapproval of the amount of tax to be imposed therein. A bill evidently intended to be general and to apply to all the people of the State, and possessing the qualities of perpetuity and elasticity above mentioned is not I think a special city bill, although its effect may not be uniform in all cities.

I think that this bill is now properly under Executive consideration, and that my jurisdiction to act upon it is complete and undeniable.

In my annual message to the Legislature at the opening of the present session, it was suggested that the question of regulating the sale of intoxicants would be under consideration, and I took occasion to recommend "such legislation as will measurably

reduce the number of places in which intoxicating beverages shall be sold throughout the State." Attention was called to statistics showing that there is a larger number of saloons in this State, in proportion to population, than in any other whose statistics are available, New York having a licensed retail drinking-place for every 150 inhabitants, while the number of saloons in the United States, including the prohibition states, is one to each 278 of the population; and a recommendation was made that the "Legislature endeavor to formulate a law which shall, so far as practicable, embody the best features of the liquor law now in successful operation in various states, with a consistent aim towards the reduction of the number of saloons in this State."

The bill now under consideration is a result of the deliberations of the Legislature upon this subject and the suggestions of many persons interested in it, and while it is not free from objection in some of its details, I have no hesitation in commending the measure as a whole. It marks the beginning of a new era in legislation in this State regulating the liquor traffic. It is a radical departure from the traditional policy of the State, which has heretofore considered the regulation and sale of intoxicating liquors matters of purely local jurisdiction. The subject has been under the general supervision and control of local officers chosen by the municipalities, except that for a few years during the early history of the State the com-

missioner of excise for the city of New York was appointed by the Governor. This bill changes the entire scheme ; abolishes all local boards having jurisdiction to issue licenses for the sale of liquor, and places the whole subject under State supervision. Whether this is wise or not, experience only can demonstrate ; but it is an experiment worth trying, and I believe that if the design of this bill is fairly worked out by competent and faithful officers it will produce a result so beneficial that our people will not be likely to wish to resume the system of local supervision with which we are so familiar, and which in many respects is so unsatisfactory.

From Magna Charta until now, English speaking people have had almost constant occasion for legislation regulating the sale and use of intoxicating liquors. Various experiments have been tried with more or less success, and our own State is no exception to the halting and fluctuating efforts that have been made to suppress intemperance. The evils resulting from the traffic are universally admitted, and the power of the State to regulate or even prohibit it is not denied. The wisest statesmen and philanthropists have given the subject the most careful attention, but the problem is not yet solved. Absolute prohibition is probably not attainable, and we can only hope for legislation embodying such reasonable regulations as may tend to repress so far as practicable the inherent evils connected with

the liquor traffic. This bill is an attempt to accomplish this result, and for the first time the State assumes control of the subject. In doing this the State is amply justified by the consideration that the effects of the use of intoxicating liquors are not local but are widespread and far reaching, and that the State itself is subjected to large expense in the creation and maintenance of institutions for the care of unfortunates who suffer directly or indirectly from the effects of the use of intoxicating liquors.

Probably the most sanguine advocates of the present measure do not hope that all the evils of intemperance will be removed by it, but I think that it may reasonably be expected that the number of places where intoxicants may be purchased will be considerably reduced, especially in the larger cities.

In opposition to this measure it is urged that it is not equal in its application and will not be equal in its results throughout the State; but equality and exact application in legislation of this character is hardly to be expected. A measure of this importance which concerns directly or indirectly more than six millions of people, differing widely in their tastes, education and experience and in their social and industrial relations, can hardly be expected exactly to fit every community and every interest, individual or aggregate, which may be affected by it. Only general lines of action can be indicated in such a law, and there must be an adjustment so far as possible to these general conditions.

It should be noted that, except in New York and Brooklyn, where the tax is respectively \$800 and \$650, and in a few large villages, the tax imposed by this bill is no higher than the maximum license fees now allowed by law. The license fee in cities may now be fixed at not less than \$30 or more than \$500, and in other places at not less than \$30 or more than \$150. By this bill the tax in Buffalo and all the cities of the second class—namely, Albany, Rochester, Syracuse and Troy—will be \$500. In other cities except Hudson the tax will be \$350, as against a possible \$500 under existing law. In Hudson the tax will be \$300. There are also a few large villages where the tax will be \$350, several where it will be \$300, and others where it will be \$200. In the rural communities generally the tax will be \$100, as against a possible \$150 under the present law. The bill does not provide for “high license,” as that term ordinarily is understood, but fixes the tax at an average and moderate rate, although probably somewhat higher than the license fee now generally charged.

The principle of local option in towns is retained, with the additional provision that if the town determines either for or against the sale of liquor by popular vote, that result cannot be changed within two years. It may be desirable to extend the local option features of the law to cities, either as a whole or by wards. If the people of any city desire an opportunity to vote upon this question, the Legisla-

ture will doubtless accord it that right, and public opinion may soon warrant a general amendment to the bill, providing for local option in all cities. On principle, there seems to be no reason why local option should not be applied to cities as well as to rural communities.

The bill imposes severe penalties for the sale of liquors without the payment of a tax, and for a violation of the tax certificate, and it also contains stringent provisions concerning the persons by whom, and the places in which, liquor may be sold. It also contains a provision, new in our legislation, authorizing an injunction to restrain the sale of liquor without a certificate, and making the violation of an order of the court a contempt.

Two-thirds of the amount of each tax are to be paid to the municipality where the business is carried on. Objection is made to the bill that all of the tax should be paid into the municipal treasury for local purposes, and that it is purely a matter of local legislation, but as already suggested, the State has an interest in the enforcement of the law and has a right to some portion or even all of the tax to be imposed upon a business authorized by it. If the number of certificates issued under this law should equal the number of licenses now in force, the revenues of the municipalities in most cases would be very largely increased, because the tax is higher than the rate now generally charged for a license. If

allowance be made for a material reduction in the number of certificates in consequence of the increase in the rate, this increase is so considerable in most cities that the revenue of the city would probably still be as large as or even larger than under the existing conditions.

The bill seeks to accomplish a complete revision of all the excise laws of the State, repealing existing statutes but retaining most of their provisions except as necessarily modified by the change of scheme for the granting of certificates or licenses. Provisions of law upon this subject, more than a century old, which have proven salutary as well as necessary restraints upon the liquor traffic are continued in force.

It will not be practicable here to enter into consideration of the details of the bill. It is plain, concise and comprehensive, and will I think easily establish its right to stand as a statute calculated to simplify, if not at once to settle, the vexed questions of the regulation of the liquor traffic. It is entitled to a fair trial, and I am firmly convinced that many of the evils incident to the liquor traffic will be lessened, though perhaps not entirely eliminated, by this new measure.

It has been suggested that the bill in some of its features, especially in some of its administrative details, should be amended. Experience will probably suggest other amendments. This subject has

received the thoughtful attention of reformers and legislators for centuries and, even with the aid of their experience and study, it is hardly to be expected that an ideal statute can be formulated at one stroke, involving such a marked change of policy, as well as numerous changes in detail.

By the passage of this act the Legislature has I think made a sincere effort to comply with the suggestion made in my last annual message, and has produced a measure which I confidently believe will be gratefully appreciated by all who think that further restraints should be imposed upon the liquor traffic.

LEVI P. MORTON

MESSAGE RELATING TO THE HUNDRETH
ANNIVERSARY OF THE FIXING OF AL-
BANY AS THE CAPITAL CITY

STATE OF NEW YORK

Executive Chamber

Albany, April 24, 1896

TO THE LEGISLATURE :

I am reminded through the medium of correspondence — a copy of which accompanies this message — that on the third day of January next will occur the one hundredth anniversary of the permanent estab-

lishment of the city of Albany as the legislative seat of the State of New York. Prior to that time the legislative sessions had been held with much irregularity in four different cities of the State. The first session ever held after the organization of the State government was the meeting of both houses at Kingston in 1777. At that time George Clinton was Governor of the State of New York. Pierre Van Cortlandt, afterwards chosen Lieutenant-Governor, was the first president of the Senate, and Walter Livingston was elected Speaker of the House. The Assembly began its session on September 1 and the Senate on September 9. The session was continued by the Assembly until October 1, and by the Senate until October 7, when the Houses were "dispersed by reason of the approach of the enemy." The second half of the session was held at Poughkeepsie, the Assembly convening on January 5 1778 and the Senate on January 15. Both Houses remained in session until April 4. On June 22 they re-assembled and that sitting was continuous until June 30. Subsequently the sessions were held varying at Kingston, Poughkeepsie, New York and Albany.

The first half of the twentieth session began November 1 1796 in the city of New York, and ended November 11.

The second half began January 3 1797 at Al-

bany and continued until April 3. John Jay was then Governor. Stephen Van Rensselaer was Lieutenant-Governor and presiding officer of the Senate, and Gulian Verplanck was Speaker of the Assembly. From that time until the present the legislative sessions have been held continuously, and by successive acts this city has been confirmed as the State Capital. The first enactment which provided for the establishment of the Legislature here was chapter 31 of the laws of 1797, passed March 10, that being in the twentieth session of the Legislature. The act provided that unless the Legislature was convened "by proclamation of the person administering the government of this State for the time being," then and in that case "the Legislature should annually and without any summons or notification whatsoever convene on the first Tuesday in January then next, at the city of Albany."

It is proposed by the Mayor and citizens of Albany to celebrate the approaching anniversary in a becoming manner, and it appears proper that your attention should be called officially to the subject, to the end that before adjournment such steps may be taken as in your judgment may seem meet for the due observance of, and your proper participation in, this historical commemoration.

LEVI P. MORTON

THE MAYOR'S LETTER

CITY OF ALBANY

Mayor's Office

Albany, April 22, 1896

Hon. LEVI P. MORTON, Executive Chamber, State Capitol, Albany, N. Y.:

DEAR SIR. — On the third day of January in the year 1797 the Legislature of the State of New York opened its session in Albany. From that day to this the seat of the State Government has been in our city. Therefore, the third day of next January will be the one hundredth anniversary of the establishment of the Capitol within the city of Albany, and it has occurred to me that there might be some propriety in the Executive of the State and a committee from each House of the Legislature providing for suitable ceremonies to commemorate this event.

Yours

JOHN BOYD THACHER

Mayor

TEMPORARY DESIGNATION OF JUSTICE
EDWARDS AS ASSOCIATE JUSTICE OF
THE APPELLATE DIVISION OF THE
THIRD DEPARTMENT

STATE OF NEW YORK

Executive Chamber

IT APPEARING to my satisfaction that the public interest requires it,

Therefore in accordance with the Constitution and the statute in such case made and provided I do hereby designate the

Honorable SAMUEL EDWARDS

of the city of Hudson who is a Justice of the Supreme Court in and for the Third Judicial District as Associate Justice of the Appellate Division of the Supreme Court for the Third Department to sit during the absence therefrom of the Honorable JUDSON S. LANDON who was heretofore designated as an Associate Justice thereof, for the hearing and determination of any cases now pending in said Appellate Division in which the said Justice LANDON is disqualified to sit under the provisions of section three of article six of the Constitution.

Given under my hand and the Privy Seal of
the State at the Capitol in the city of
[L S] Albany this twenty-seventh day of April

in the year of our Lord one thousand
eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary.

MEMORANDUM FILED WITH ASSEMBLY
BILL INTRODUCTORY No. 995 ENTI-
TLED "AN ACT FOR THE RELIEF OF
THE TOWN OF SMITHTOWN, SUFFOLK
COUNTY."—APPROVED.

STATE OF NEW YORK

Executive Chamber

Albany, April 27, 1896.

The object of this bill is to permit the taxation of land belonging to the State and occupied by the Long Island State Hospital in the town of Smithtown, for the purpose of aiding the town in the payment of an indebtedness contracted prior to the acquisition of the land by the State. It seems that the land was acquired by the county of Kings for an asylum or hospital, and that since it was so acquired it has been assessed by agreement at a valuation of \$87,500, upon which taxes have been paid to the town, and it is urged in behalf of this bill that the town should not now be deprived of the benefit of this tax. The bonded indebtedness is \$50,000, and the bonds are due in about six years. The town

already has a sinking fund of \$13,500 to be applied to this indebtedness. These bonds were issued before the land was acquired by Kings county, and the town now asks that the assessment shall continue as against the State until the bonded indebtedness is discharged, after which time the property will be exempt from taxation. The bill directs the State Treasurer to credit the county of Suffolk for State taxes an amount equal to the proportion of taxes which may be required to pay such bonded indebtedness, and the town is directed to apply the amount of such credit upon the indebtedness from year to year.

There seems to be an equity in this bill, and while it is contrary to our general policy to allow the property of the State to be taxed, it seems only just that this town should continue to receive the benefit of the taxation of this property, which it would otherwise have received if the hospital had not been taken by the State. The bill at most is only temporary in its effect, and can hardly be used as a precedent for general legislation authorizing the taxation of the property of the State. The assessment is to be approved each year by the Comptroller, who as a representative of the State will see that its interests are protected. The bill seems to me equitable and I think it should receive Executive approval.

LEVI P. MORTON

MATTER OF TAMSEN, SHERIFF—SECOND NOTICE AND SUMMONS

STATE OF NEW YORK

Executive Chamber

In the matter of the supplemental charges preferred against Edward J. H. Tamsen the Sheriff of the City and County of New York—Notice and summons.

To EDWARD J. H. TAMSEN *the Sheriff of the City and County of New York:*

You are hereby notified that supplemental charges of misconduct and malfeasance in office have been preferred against you by H. B. Bradbury, Henry C. Robinson, George M. Dusenberry, John E. Maddox, Charles A. Hughes and Louis Diamant of the city and county of New York in this State and a copy of said charges is herewith served upon you.

You are therefore required to show cause why you should not be removed from the office of sheriff of the city and county of New York and to answer the said charges within eight days after service of this order and a copy of said charges upon you.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this twenty-eighth day of April in the year of our Lord one thousand eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

REVOCATION OF JUSTICE DWIGHT'S
DESIGNATION TO THE APPELLATE
DIVISION

STATE OF NEW YORK

Executive Chamber

WHEREAS the Honorable CHARLES C. DWIGHT a Justice of the Supreme Court of the Seventh Judicial District having been heretofore designated as an Associate Justice of the Appellate Division of the Supreme Court in and for the First Judicial Department and he having filed his resignation of such designation ;

Now therefore in accordance with the statute in such case made and provided the designation heretofore made of the Honorable CHARLES C. DWIGHT as Associate Justice of the Appellate Division of the Supreme Court in and for the First Judicial Department is hereby revoked.

Given under my hand and the Privy Seal of
the State at the Capitol in the City of
[L S] Albany this twenty-ninth day of April
in the year of our Lord one thousand
eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

REVOCATION OF THE DESIGNATION OF
JUSTICE RUMSEY TO THE APPELLATE
DIVISION

STATE OF NEW YORK

Executive Chamber

WHEREAS The Honorable WILLIAM RUMSEY a Justice of the Supreme Court of the Seventh Judicial District having been heretofore designated as an Associate Justice of the Appellate Division of the Supreme Court in and for the Fourth Judicial Department has requested in writing that his said designation for such Appellate Division be revoked ;

Now therefore In accordance with the statute in such case made and provided, the designation heretofore made of the Honorable WILLIAM RUMSEY as Associate Justice of the Appellate Division of the Supreme Court in and for the Fourth Judicial Department is hereby revoked.

Given under my hand and the Privy Seal of
the State at the Capitol in the city of
[L S] Albany this twenty-ninth day of April in
the year of our Lord one thousand eight
hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

MEMORANDUM FILED WITH ASSEMBLY
BILL No. 283 RELATING TO CORONERS
IN KINGS COUNTY, WHICH BECAME A
LAW WITHOUT THE GOVERNOR'S SIG-
NATURE

STATE OF NEW YORK

Executive Chamber

Albany, April 29, 1896

*Memorandum filed with Assembly bill number 283 en-
titled "An act in relation to the term of office and
election of Coroners of the County of Kings."*

The principal object of this bill is to regulate the term of office of coroners of Kings county, and it is provided in substance that there shall be an election of coroners in 1899, when coroners shall be elected for the term of four years; and provision is made for the election of their successors once every four years.

It seems that the present incumbents of the office of coroner in this county were elected in 1895 for a term of three years which will expire December 31, 1889, and the bill expressly continues these coroners in office until the last day of December, 1899. There seems to be some doubt about the power of the Legislature to extend the term of an elective officer and this bill is perhaps objectionable for that reason, but the situation in Kings county is somewhat peculiar. By an amendment to the Constitution adopted in 1894, the office of coroner ceased to be a constitu-

tional office, but the office itself was not abolished because it was continued by virtue of statutes which had been long in force. The term of office fixed by the statute and by the old Constitution was three years, and under ordinary conditions the successors of the present incumbents in Kings county would be elected in 1898, but by the provisions of section 3 of article XII of the new Constitution, county officers in the counties of New York and Kings, except to fill vacancies, must be elected in the odd-numbered years. This seems to prevent an election of coroner in 1898, and under the Constitution there could be no election for this office in Kings county, except to fill a vacancy, prior to 1899.

This produces an interregnum during the year 1899, and the present incumbents would hold over under the public-officers law through that year, unless the vacancy were filled by appointment by the Governor. This bill attempts to cover this interregnum by continuing the present incumbents in office until there can be a regular election. As already suggested, the validity of this provision may be doubted, but it is the shortest extension which can be made to cover the period which must elapse before there can be a regular election ; and in view of the peculiar situation, the importance of regulating the term of office of coroners hereafter to be elected in that county, and because the near adjournment of the Legislature renders an amendment to the bill im

practicable, I have concluded to permit it to become a law.

LEVI P. MORTON

CERTIFICATION OF THE NECESSITY OF
THE PASSAGE OF SENATE BILL No. 1514
RELATING TO ELECTIONS

STATE OF NEW YORK

Executive Chamber

TO THE LEGISLATURE :

It appearing to my satisfaction that the public interest requires it ;

Therefore In accordance with the provisions of section fifteen of article three of the Constitution and by virtue of the authority thereby conferred upon me, I do hereby certify to the necessity of the immediate passage of Senate bill number 1514, introductory number 1003, entitled "An act in relation to the elections, constituting chapter six of the general laws."

Given under my hand and the Privy Seal of the State at the Capitol in the city of

[L s] Albany this twenty-ninth day of April in the year of our Lord one thousand eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

CERTIFICATION OF THE NECESSITY OF
THE PASSAGE OF ASSEMBLY BILL, IN-
TRODUCTORY No. 1702, FOR A CELE-
BRATION OF THE SELECTION OF AL-
BANY AS THE CAPITAL CITY

STATE OF NEW YORK
Executive Chamber

TO THE LEGISLATURE :

It appearing to my satisfaction that the public in-
terest requires it;

Therefore In accordance with the provisions of
section fifteen of article three of the Constitution
and by virtue of the authority thereby conferred upon
me, I do hereby certify to the necessity of the imme-
diate passage of Assembly bill introductory number
1702 entitled "An act to provide for the celebration
in the city of Albany of the one hundredth anniver-
sary of the location of the Capital in said city."

Given under my hand and the Privy Seal of
the State at the Capitol in the city of

[L S] Albany this twenty-ninth day of April in
the year of our Lord one thousand eight
hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

CERTIFICATION OF THE NECESSITY OF
THE PASSAGE OF ASSEMBLY BILL, IN-
TRODUCATORY No. 1701, TO PROVIDE
MEANS FOR THE SUPPORT OF GOVERN-
MENT

STATE OF NEW YORK
Executive Chamber

TO THE LEGISLATURE :

It appearing to my satisfaction that the public in-
terest requires it;

Therefore In accordance with the provisions of
section fifteen of article three of the Constitution
and by virtue of the authority thereby conferred upon
me, I do hereby certify to the necessity of the imme-
diate passage of Assembly bill introductory number
1701 entitled "An act to provide ways and means for
the support of the government."

Given under my hand and the Privy Seal of
the State at the Capitol in the city of
[L S] Albany this thirtieth day of April in the
year of our Lord one thousand eight
hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

CERTIFICATION OF THE NECESSITY OF
THE PASSAGE OF ASSEMBLY BILL, IN-
TRODUCTORY NO. 1700, MAKING APPRO-
PRIATIONS FOR CERTAIN DEFICIEN-
CIES

STATE OF NEW YORK
Executive Chamber

TO THE LEGISLATURE :

It appearing to my satisfaction that the public in-
terest requires it;

Therefore In accordance with the provisions of
section fifteen of article three of the Constitution
and by virtue of the authority thereby conferred upon
me, I do hereby certify to the necessity of the imme-
diate passage of Assembly bill introductory number
1700 entitled "An act making appropriations for cer-
tain expenses of government and supplying deficien-
cies in former appropriations."

Given under my hand and the Privy Seal of
the State at the Capitol in the city of
[L S] Albany this thirtieth day of April in the
year of our Lord one thousand eight hun-
dred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

CERTIFICATION OF THE NECESSITY OF
THE PASSAGE OF ASSEMBLY BILL, IN-
TRODUCTORY NO. 1703, MAKING AN
APPROPRIATION FOR THE CARE OF
THE INSANE

STATE OF NEW YORK
Executive Chamber

TO THE LEGISLATURE :

It appearing to my satisfaction that the public interest requires it ;

Therefore, In accordance with the provisions of section fifteen of article three of the Constitution and by virtue of the authority thereby conferred upon me, I do hereby certify to the necessity of the immediate passage of Assembly bill introductory number 1703 entitled "An act to appropriate money for the support of the insane, under the provisions of chapter one hundred and twenty-six of the laws of one thousand eight hundred and ninety, chapter two hundred and fourteen of the laws of one thousand eight hundred and ninety-three, three hundred and fifty-eight of the laws of one thousand eight hundred and ninety-four, and six hundred and ninety-three of the laws of one thousand eight hundred and ninety-five."

Given under my hand and the Privy Seal of
the State at the Capitol in the city of

[L s] Albany this thirtieth day of April in the

year of our Lord one thousand eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

DESIGNATION OF JUSTICE WARD AS
ASSOCIATE JUSTICE OF THE APPELLATE
DIVISION FOR THE FOURTH DEPARTMENT.

STATE OF NEW YORK

Executive Chamber

WHEREAS An order having been made and filed with the Secretary of State upon the written request of the Honorable WILLIAM RUMSEY one of the Associate Justices of the Appellate Division of the Supreme Court in and for the Fourth Judicial Department revoking the designation of the said RUMSEY as such Associate Justice and a vacancy having thus occurred,

Now therefore in accordance with section two of article six of the Constitution the

Honorable HAMILTON WARD

of the village of Belmont a Justice of the Supreme Court of the Eighth Judicial District is hereby des-

igned as Associate Justice of the Appellate Division of the Supreme Court in and for the Fourth Judicial Department for the term ending December 31, 1899.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L s] Albany this thirtieth day of April in the year of our Lord one thousand eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

DESIGNATION OF JUSTICE RUMSEY AS
ASSOCIATE JUSTICE OF THE APPELLATE
DIVISION FOR THE FIRST
DEPARTMENT

STATE OF NEW YORK

Executive Chamber

WHEREAS An order having been made and filed in the office of the Secretary of State upon the written request of the Honorable CHARLES C. DWIGHT one of the Associate Justices of the Appellate Division of the Supreme Court in and for the First Judicial Department revoking the designation of said

Dwight as such associate justice and a vacancy having thus occurred,

Now Therefore in accordance with section two of article six of the Constitution the

Honorable WILLIAM RUMSEY

of the village of Bath a Justice of the Supreme Court of the Seventh Judicial District is hereby designated as Associate Justice of the Appellate Division of the Supreme Court in and for the First Judicial Department for the term of five years from the date hereof.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
 [L S] Albany this first day of May in the year of our Lord one thousand eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

REVOCATION OF THE DESIGNATION OF
JUSTICE EDWARDS AS ASSOCIATE
JUSTICE OF THE APPELLATE DIVI-
SION FOR THE THIRD DEPARTMENT

STATE OF NEW YORK

Executive Chamber

WHEREAS The Honorable SAMUEL EDWARDS a Justice of the Supreme Court of the Third Judicial District having been heretofore designated to sit as an Associate Justice of the Appellate Division of the Supreme Court in and for the Third Judicial Department and he having filed his written request that such designation be revoked,

Now Therefore In accordance with the statute in such case made and provided the designation heretofore made of date April 27, 1896, of the Honorable SAMUEL EDWARDS to sit as Associate Justice of the Appellate Division of the Supreme Court in and for the Third Judicial Department is hereby and at his own request revoked.

Given under my hand and the Privy Seal of
the State at the Capitol in the city of
[L s] Albany this eighth day of May in the
year of our Lord one thousand eight
hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

MEMORANDUM FILED WITH SENATE
BILL No. 825 — THE GREATER NEW
YORK BILL — APPROVED

STATE OF NEW YORK
Executive Chamber

Albany, May 11, 1896

Memorandum filed with Senate bill number 825 entitled "An act consolidating the local governments of the territory within the city and county of New York, the counties of Kings and Richmond, and Long Island City and the towns of Newtown, Flushing and Jamaica, and part of the town of Hempstead in the county of Queens, and providing for the preparation of bills for enactment into laws for the government thereof"—Approved

This bill as its title indicates is intended to provide the basis for a consolidation of the counties of New York, Kings and Richmond, and a part of Queens, into one great city. The territory embraced in the area of the proposed city aggregates nearly 318 square miles and contains over three millions of inhabitants. The municipalities to be included in the proposed consolidation have attained their present condition through many years of gradual growth, and each has acquired an individuality incident to its location, its peculiar social, business and political condition, and the different characteristics of the peo-

ple who have made it what it is. The growth, development and expansion of a great city in the ordinary way by the gradual accretions of wealth, territory and population, excite no special attention except by comparisons between different periods, but the consolidation of great municipalities like those included in this bill, by an act of the Legislature, presents many complex questions. To effect a proper consolidation of this territory, with its divergent interests, into one municipality, there must be provided a harmonious government, an equitable system of taxation, a fair adjustment of the several existing municipal debts, and a homogeneous arrangement of executive, judicial and administrative functions. Many of the existing functions cannot be constitutionally amalgamated or disturbed by any attempted consolidation. The autonomy of the counties must be preserved until changed by constitutional amendment. Boards of supervisors must be re-established in the counties of Kings and New York, and the board already existing in the county of Richmond must be retained. The parts of the consolidated territory lying in the county of Queens will still remain in that county, unless annexed to other counties; but such annexation cannot affect existing Senate, Assembly or Judicial districts. The constitutional offices provided for each county, including certain judicial tribunals, must continue. Certain police and administrative functions cannot be wholly destroyed

or made subordinate to city supervision; and throughout the consolidated city there must continue to be a dual government, partly the creature of the Constitution, under constitutional limitations and restrictions and beyond the control of the city government, and partly the creature of statutes, providing for municipal government within the same territorial limits. How far the Legislature may go in amalgamating city and county governments will be one of the important problems for the consideration of the commission provided by the bill.

The bill declares in substance that consolidation shall become complete on the first day of January, 1898, but this declaration evidently cannot have the full force which its terms would indicate, because no provision is made for the government of the consolidated territory, and it is expressly provided by section 2 that "for all purposes the local administration and government of the territories in section one of this act enumerated shall remain in and be performed and exercised by the respective bodies, politic and corporate, to which they are now intrusted, and except so far as hereafter changed by authority of law, and for such purposes, and until such time and except to such extent, the said bodies politic and corporate shall continue to exist, and to possess the same rights, properties, privileges and franchises, and to exercise the same powers, and discharge the same duties, and be subject to the same liabilities, and

the various officers thereof shall be elected or appointed in the same manner as heretofore." By the terms of the bill there can be no disturbance of existing conditions until the Legislature has made further provision for the government of the new city.

Practically, the only effective provision in the bill is found in the third section, which provides for the appointment of a commission to prepare and submit to the next Legislature "bills for the government of the municipal corporation, the mayor, aldermen and commonalty of the city of New York, as by this act enlarged." This commission will be charged with the performance of a difficult task; and it is urged that it cannot within the brief time given by the bill prepare a charter for this great municipality which will be satisfactory to the next Legislature and the inhabitants of the new city, as well as to the other people of the State, who necessarily feel a deep interest in this subject. This possibility is not however a sufficient objection to warrant my disapproval of the bill.

The plan for the proposed consolidation began to take definite shape in 1890, when by chapter 311 of the laws of that year a commission was created "to inquire into the expediency of consolidating the various municipalities in the State of New York, occupying the several islands in the harbor of New York, and to report from time to time their conclusions thereon to the Legislature, with such recom-

mendations as they may deem proper for adoption and their reasons therefor." The commission gave the subject full and careful consideration, with the result that a new city was proposed including the territory already indicated, namely, the counties of New York, Kings, Richmond, and parts of the county of Queens. By chapter 64 of the laws of 1894 the question of the proposed consolidation was submitted to a vote of the people of the territory included in the plan as then outlined, which vote was to be and was in fact taken at the general election in November, 1894. Upon this vote there was a majority of 44,188 in favor of consolidation.

The commission appointed by the law of 1890 presented a report to the Legislature of 1895, setting forth, by communities, the result of the vote, discussing some questions incident to consolidation, and proposing a bill providing for the preparation of a charter for the government of the consolidated city. No bill was passed at that session, but the commission's bill with some modifications has been passed this year and is the bill now under Executive consideration.

In accordance with the requirements of the new Constitution the bill was sent to the cities of New York, Brooklyn and Long Island City for their action. It was accepted by the municipal authorities of Long Island City, but was returned by the mayors of Brooklyn and New York without acceptance. In

a communication addressed to the Legislature the mayor of Brooklyn says that “under favorable conditions and on fair terms, consolidation of the municipalities referred to in this bill may be of decided benefit ;” but he objects to the bill on the grounds, among others, that it is not essential to the well-being of the city of Brooklyn that it be consolidated with the other municipalities named, “irrespective of terms or conditions ;” that under the terms of this bill it is possible, perhaps probable, that no charter will ever be submitted as a complete instrument, but that consolidation may be effected if at all by a series of separate bills, that the creation of a new city will necessitate the re-establishment of a board of supervisors in the county of Kings, that “it would be most disastrous to the interests of good, economical government to have that board and the old forms of county government restored to life ;” and because it contains no provisions requiring the terms and conditions of consolidation to be submitted to the people.

The mayor of New York in returning the bill says that “the commercial interests of New York demand consolidation, the geographical location of the city and its natural facilities as a commerce point, mark it as the metropolis of this continent ; its commercial and manufacturing interests will establish it as such, and the very fact of a municipality so largely increased in population and in boundaries will, of

itself, advance the value of property, invite capital, enlarge commerce, and in innumerable other ways increase the potential power inherent in so large a community." But he suggests that it is a reversal of the logical steps to be taken to first declare, as in the present bill, the consolidation of the territory named, and leave it to the future to bring about the methods of such consolidation. He points out that in his judgment the provision for a commission to frame a charter and report to the Legislature of 1897 does not provide sufficient length of time in which to accomplish the best results, and further suggests that the Legislature will probably be called upon to grant an extension of time for the submission of a proposed charter, leading possibly to the establishment of commissions for the temporary government of the new city. He does not favor the submission of a proposed charter to a popular vote, but thinks that consolidation should not be decreed until the Legislature adopts a charter finally uniting the sections to make up the Greater New York. He regards consolidation as inevitable, and objects only to the method of effecting it contemplated by this bill.

The three cities named are the only municipalities affected, to which the Constitution requires a submission of the pending bill. It may be properly assumed that a charter prepared by the commission will provide fair terms to all the localities affected, and as

the mayors of the three cities are to be members of the commission, their suggestions will have great weight in framing a charter upon conditions favorable to their respective cities. All localities affected will be heard, and all interests will be considered by the commission, and until a charter or plan of government which may be prepared shall be approved by the Legislature, there can be no change of existing conditions

In my annual message to the Legislature of 1895 attention was called to this subject, and I then suggested that it "would be the duty of the Legislature to take such further steps as are necessary to carry into effect the wishes of the people," as expressed by the vote taken in 1894. I also suggested that "a commission be at once created composed of the most capable citizens of the various localities interested, and charged with the power and duty to frame a charter," but no action was taken by that Legislature. In my annual message to the Legislature of 1896 I again called attention to the matter and suggested that "it deeply concerns the interests and wishes of more than one-half of the population of the State, comprised in several contiguous municipalities," and recommended that earnest and careful consideration be given to the subject, and that some conclusive action be taken regarding it at that session. The result of legislative deliberation appears in this bill, whose chief object as already suggested

is the appointment of a commission to consider the questions connected with the preparation of a proper charter.

To the commission provided by the bill the pending problems concerning consolidation are for the time being transferred; and I have no hesitation in expressing the conviction that it will be able to devise a scheme of municipal government alike creditable to its members, competent for the great purposes desired, and promotive of the highest interests of the State.

LEVI P. MORTON

MATTER OF TAMSEN, SHERIFF—ORDER
THAT THE COMMISSIONER EXAMINE
SUPPLEMENTAL CHARGES

STATE OF NEW YORK

Executive Chamber

To the Honorable WILLIAM H. ROBERTSON :

WHEREAS Additional specifications and additional and supplemental charges having been filed with me by H. B. Bradbury and others against E. J. H. Tamsen the sheriff of New York county and the said Tamsen having interposed an answer thereto, and you having been heretofore appointed by me as commissioner to take the testimony and the examination

of witnesses as to the truth of the original charges heretofore filed with me,

Now therefore, You are hereby further authorized to take testimony and examination of witnesses on such supplemental and additional charges and specifications and to report the same to me and also the material facts which you may deem to be established by the evidence in the same manner as if said additional and supplemental charges had been embodied in the original charges; and I hereby direct the Attorney-General of the State to conduct said inquiry and examination.

Given under my hand and the Privy Seal of
the State at the Capitol in the city of
[L s] Albany this thirteenth day of May in
the year of our Lord one thousand eight
hundred and ninety-six.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE

Private Secretary

VETO OF ASSEMBLY BILL NO. 1165 PRO-
VIDING FOR A NORMAL SCHOOL AT
RAMAPO

STATE OF NEW YORK

Executive Chamber

Albany, May 26, 1896

*Memorandum filed with Assembly bill number 1165
entitled " An Act to establish a normal and training
school in the town of Ramapo, in the county of
Rockland, and to make an appropriation there-
for" — Not approved*

This bill provides for an appropriation of fifty thousand dollars to establish a normal school in the town of Ramapo in the county of Rockland. There does not seem to be any apparent necessity for the establishment of another normal school. The State already has eleven of these schools located respectively at Albany, Brockport, Buffalo, Fredonia, Geneseo, New Paltz, Oneonta, Oswego, Plattsburgh and Potsdam; and by an act passed in 1893 another normal school which is not yet in operation, was established at Jamaica. These schools are well distributed through the State and there seems to be no general demand for the establishment of another at this time.

In a communication to the Legislature of 1895 on the subject of normal schools, I took occasion to

suggest that: "While all the normal schools have done good work in the promotion of education, I think it is generally conceded that the State has gone as far as it should go at present in expenditures for their extension." A bill for the establishment of a normal school at Millerton failed to receive Executive approval last year for the reasons indicated, and I think there is not now sufficient reason to change the policy adopted at that time.

LEVI P. MORTON

ASSIGNMENT OF JUSTICE BARNARD TO
DUTY IN THE SUPREME COURT, FIRST
DISTRICT

STATE OF NEW YORK

Executive Chamber

WHEREAS The term of office of the Honorable JOSEPH F. BARNARD as Justice of the Supreme Court in and for the Second Judicial District having been abridged by the limitation of age prescribed by section twelve of article six of the Constitution and he having thereby become entitled to receive for the remainder of the term for which he was elected, to wit, until the thirty-first day of December in the year 1899, the compensation established by law and which compensation is now being received by him; and

WHEREAS He having consented to be assigned to the duty in the Supreme Court which is hereinafter specified and it appearing to my satisfaction that the public interest requires it;

Therefore, By virtue of the power conferred upon me by section twelve of article six of the Constitution and upon the filing of his written consent to such assignment I do hereby assign the

Honorable JOSEPH F. BARNARD

to preside at and hold trial term, part eleven, of the Supreme Court in the First Judicial District for the June Term in the year 1896 and to perform all of the duties of a justice presiding at such term.

Given under my hand and the Privy Seal of
the State at the Capitol in the city of
[L s] Albany this twenty-seventh day of May
in the year of our Lord one thousand
eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

VETO OF ITEMS IN ASSEMBLY BILL NO.
1445—THE SUPPLY BILL

STATE OF NEW YORK

Executive Chamber

Albany, May 28, 1896

Statement of items of appropriation objected to and not approved in Assembly bill number 1445 entitled "An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations"—Not approved

The several items herein enumerated and contained in Assembly bill number 1445 entitled "An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations," are objected to and not approved for the reasons hereinafter stated.

First. "For the payment of expenses in the investigation of charges against State officers, ordered by the Governor, the sum of five thousand dollars, or so much thereof as may be necessary." This item seems to be unnecessary for the reason that the appropriation for contingent expenses of the Executive Department will probably be sufficient for the purpose here indicated.

Second. "For the operation, maintenance and repair of a drawbridge known as Drake's drawbridge,

spanning the Wappinger's creek near the village of New Hamburg, in the county of Dutchess, for the year ending March 1, 1897, as provided by chapter two 239 of the laws of 1892, as amended by chapter 401 of the laws of 1893, the sum of five hundred dollars, or so much thereof as may be necessary, to be paid upon the order of the Comptroller and the Superintendent of Public Works." This appears to be a duplication in part of an item in the supplemental supply bill upon the same subject, and that has already been approved.

LEVI P. MORTON

VETO OF ITEMS IN ASSEMBLY BILL NO.
2787 — THE SUPPLEMENTAL SUPPLY
BILL

STATE OF NEW YORK

Executive Chamber

Albany, May 28, 1896

Statement of items of appropriation objected to and not approved contained in Assembly bill number 2787 entitled "An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations"—Not approved

The several items herein enumerated and contained in Assembly bill number 2787 entitled "An act making

appropriations for certain expenses of government and supplying deficiencies in former appropriations," are objected to and not approved for the reasons hereinafter stated :

First. "The sum of sixteen thousand seven hundred and twenty-eight dollars, or so much thereof as may be necessary, payable by the treasurer on the warrant of the Comptroller and the Superintendent of Public Works, is hereby appropriated out of any moneys in the treasury not otherwise appropriated, for the purpose of erecting a breakwater and lighthouse on Keuka lake, in the county of Yates, and for the purpose of completing the piling of the marsh at the outlet on the north side of said lake, said sum to be expended by and under the direction of the Superintendent of Public Works." This seems like a large and unnecessary expenditure of money for this purpose at this time, and I think it should not now be made.

Second. "For the Comptroller for the payment of money illegally assessed and paid by the German Looking-Glass Plate Company into the treasury under the provisions of chapter five hundred and forty-two of the laws of eighteen hundred and eighty, and the several acts amendatory thereof, the sum of twelve hundred and seventy-nine dollars and sixty-three cents."

Third. "For the Comptroller, for the payment of the claim of the General Electric Company, for taxes

erroneously paid to the Comptroller under the corporation tax laws, the sum of fifteen thousand and fifty-eight dollars and fifty cents, or so much thereof as may be necessary."

I am informed that these items represent a readjustment and resettlement by the Comptroller of taxes claimed to be erroneously paid by these companies. The Comptroller is required by the act authorizing such resettlement to give credit to the companies upon future taxes to be paid by them; and it is the general practice of the Comptroller's office to credit the amounts fixed upon such resettlement of corporation taxes, upon taxes subsequently assessed against such corporations. These seem like proper cases for the application of that rule.

It has been suggested that a general law should be enacted, or else the law of 1889 amended, providing a different scheme for the adjustment and settlement of claims of corporations for taxes erroneously paid into the State treasury. Under the present law the Comptroller is required to give credit for the amount of taxes which a corporation is deemed to have erroneously paid, and the corporation has the benefit of this credit upon payment of future taxes. In some instances the amounts determined to have been overpaid are very large, and the subsequent taxes payable by the corporation are quite small, so that it will require a long term of years for the corporation to work out the credit given, and if

as in some instances a corporation discontinues business after such resettlement, it can receive no benefit from a credit on the books of the Comptroller. If it is determined that the State has money belonging to a corporation or individual, erroneously paid into the State treasury, there seems to be no good business reason why it should not be immediately paid over, leaving all questions relating to the payment of future taxes to be disposed of when they arise.

The supplemental supply bill of 1895 contained an appropriation similar to this, and it was disapproved substantially for the reasons herein indicated. I think the same course should be adopted with reference to these items.

LEVI P. MORTON

MEMORANDUM FILED WITH ASSEMBLY
BILL No. 2718 PROVIDING FOR CERTAIN
STUDIES IN THE PUBLIC SCHOOLS—
APPROVED.*

STATE OF NEW YORK

Executive Chamber

Albany, June 15, 1895

*Memorandum filed with Assembly bill number 2718
entitled "An Act to amend the consolidated school
law, providing for the study of the nature and
effects of alcoholic drinks and other narcotics in con-
nection with physiology and hygiene in the public
schools"—Approved*

This bill was introduced into the Assembly on the 13th of February last, and remained under consideration in the Legislature until near the close of the session, when it was passed without a dissenting vote in either branch. During its pendency several hearings were had before committees and ample opportunity was given for a full discussion of its provisions. All of the objections have been carefully weighed and duly considered, but they do not seem to me to be sufficient to warrant me in disregarding the unanimous expression of opinion by the Legislature.

This bill purports to amend sections 19 and 20 of article 15 of the Consolidated School Law. This

* Omitted from Public Papers of 1895.

law is divided into titles which are subdivided into articles. Sections 19 and 20 of title 15 relate to the subject-matter of this bill and are probably the sections intended to be amended by it.

Section 19 requires provision to be made by the proper local school-authorities for instruction of pupils in all schools supported by public money or under State control, in physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system.

Section 20 prohibits the granting of a certificate to teach in the public schools of the State to any person who has not passed a satisfactory examination in the subjects referred to in section 19. By other portions of the Consolidated School Law trustees of common school districts and Boards of Education of Union Free School districts are given power and it is made their duty to prescribe the course of study in the respective schools and to make provision for instruction in the subjects referred to in section 19. By section 19 as amended by this bill it is provided that the "nature of alcoholic drinks and other narcotics and their effects on the human system shall be taught in connection with the various divisions of physiology and hygiene, as thoroughly as are other branches for not less than four lessons a week for ten or more weeks in each year in all grades below the second year of the high school, in all schools under State control, or sup-

ported wholly or in part by public money, and also in all schools connected with reformatory institutions. All pupils must continue such study until they have passed satisfactorily the required primary, intermediate or high school test in the same, according to their respective grades. The local school authorities shall provide needed facilities and define the time and place for this branch in the regular course of study."

The study of the subjects indicated has been required by our law since 1884, and they have become a part of the course of the instruction in the public schools of the State. The bill now under consideration makes no change in the subjects to be taught, but fixes the time during which this study shall be pursued. It seems to be the intention of the bill to provide a minimum time for this study of four lessons a week in each of the grades classified as primary, intermediate, and high school, making three terms in all. This may also be the maximum time required, for the bill only requires a study of this subject until the pupil shall have passed a satisfactory examination in each grade, and if this examination be passed at the end of a single term, the pupil is not required to continue the study until he enters the next grade. The examinations are under the supervision of the local school authorities or the teachers, and the character of the examinations is subject to their judgment. The administration of

this law being entirely in the hands of the local authorities and teachers, the efficiency of the instruction to be given will depend wholly upon their interest and good judgment.

The objection that this law will require an increased and burdensome amount of study upon this subject, out of proportion to its importance compared with the rudimentary studies necessary in the early periods of education, is not I think supported by either its letter or spirit. I am informed that the common district schools are not usually graded, and where no grades exist provision can easily be made for complying with the spirit of the law by providing an equivalent amount of study at such times and for such periods as may be deemed best. I think the law will be improved by this amendment. The present law fails to fix any definite time or period during which this study shall be pursued, and the whole matter is left to the discretion of the persons in charge of the school. This bill fixes a definite time, and the courses of study and the work of the teacher may be arranged accordingly. I think the amendment must have the inevitable effect of simplifying and making much easier the work of the teacher, and at the same time it seems to provide for all the instruction upon this subject that can reasonably be desired.

Objection is also made to the bill that it will require the purchase of a large number of additional

text-books. It is to be noted that the text-books to be used are upon the subjects of physiology and hygiene, and not alone upon the subject of the effects of alcoholic drinks. Physiology and hygiene will doubtless be studied much more than the other subject to be taught in connection with it, and the bill provides that the text-books upon physiology shall contain a given amount of matter relating to the other subject.

I am informed that there is a large number of text-books upon physiology now available which contain the matter required by this bill. The present law imposes upon boards of education in cities, villages and Union Free School districts the duty of adopting and designating text-books to be used in the schools under their charge. In common school districts text-books are to be designated by the people at the annual school meeting. After such text-books have been adopted they cannot be changed within a period of five years, except upon a three-fourths vote of the board of education or of the legal voters present and voting at the annual school meeting.

It seems to be the intention of this bill to continue the use of text-books already designated until the expiration of the five years for which they may have been adopted. After that time and when new text-books are designated, it will probably cost no more to purchase text-books which comply with this

law than to buy those which do not comply with it, so that, under a fair and reasonable administration of the law, no serious additional expense need be incurred.

Objection is also made that a penalty is imposed involving a loss of public money to the district, city, normal or other school failing to comply with the requirement of this law, but I see no difficulty in so administering the law as to avoid this result. It only requires a reasonable degree of care and watchfulness on the part of school officers to insure a satisfactory compliance with the law, and if this be done there need be no failure to receive the public school money.

There is one feature of the law which does not seem to have been referred to in the discussion concerning its provisions, namely, the requirement that instruction in the subject indicated be given "in all schools connected with reformatory institutions." There does not seem to be any provision of law requiring instruction in this subject in these institutions, and it appears from information received in response to inquiries made at the office of the State Board of Charities, that no instruction upon this subject is given in any of these institutions except the Elmira Reformatory. If this instruction is important or desirable for the pupils in our common schools, it must be equally important for the inmates of industrial schools and the various institutions for the care of juvenile delinquents.

The new Constitution (section 1 of article 9) requires "the Legislature to provide for the maintenance and support of a system of free common schools, wherein all of the children of this State may be educated." The power to establish schools implies the power to prescribe courses of study therein, and what those courses of study shall be must be largely a matter of legislative policy. The fact that the legislatures of forty-one States, including our own, and the congress of the United States, have already passed laws providing for instruction in the subjects indicated in this bill, shows that it is supported by a widespread public sentiment; and inasmuch as this bill seeks to simplify and reduce to a more systematic method the study of the effects of alcoholic drinks and narcotics upon the human system, without necessarily increasing the amount of study required by the present law, I think it should receive Executive approval.

LEVI P. MORTON

APPOINTMENT OF AN EXTRAORDINARY
TRIAL TERM AT CANTON

STATE OF NEW YORK

Executive Chamber

IT APPEARING to my satisfaction that the public interest requires it,

Therefore In accordance with the statute in such

case made and provided I do hereby appoint an Extraordinary Trial Term of the Supreme Court to be held at the court-house in the village of Canton and county of St. Lawrence on Monday the sixth day of July next at ten o'clock in the forenoon of that day and to continue so long as may be necessary for the disposal of the business which may be brought before it; and I do hereby designate the

Honorable LESLIE W. RUSSELL

of the village of Canton who is a Justice of the Supreme Court of this State to hold the said Extraordinary Trial Term as hereinbefore described; and I do further direct that notice of such appointment be given by publication of this order once in each week for two successive weeks in the *St. Lawrence Plaindealer* newspaper published in the said village of Canton.

Given under my hand and the Privy Seal of
 the State at the Capitol in the city of
 [L s] Albany this twenty-eighth day of May in
 the year of our Lord one thousand eight
 hundred and ninety-six.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE

Private Secretary

APPOINTMENT OF AN EXTRAORDINARY
SPECIAL TERM AT CANTON

STATE OF NEW YORK

Executive Chamber

IT APPEARING to my satisfaction that the public interest requires it,

Therefore In accordance with the statute in such case made and provided I do hereby appoint an Extraordinary Special Term of the Supreme Court to be held at the court-house in the village of Canton and county of St. Lawrence on Monday the sixth day of July next at ten o'clock in the forenoon of that day and to continue so long as may be necessary for the disposal of the business which may be brought before it; and I do hereby designate the

Honorable LESLIE W. RUSSELL,

of the village of Canton who is a Justice of the Supreme Court of this State to hold the said Extraordinary Special Term as hereinbefore described; and I do further direct that notice of such appointment be given by publication of this order once in each week for two successive weeks in the *St. Lawrence Plaindealer* newspaper published in the said village of Canton.

Given under my hand and the Privy Seal of
the State at the Capitol in the city of

[L S]

Albany this twenty-eighth day of May in

the year of our Lord one thousand eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

MEMORANDUM FILED WITH ASSEMBLY
BILL No. 925 TO INCORPORATE THE
ALBANY AND BATH-ON-HUDSON
BRIDGE COMPANY—APPROVED

STATE OF NEW YORK

Executive Chamber

Albany, May 28, 1896

Memorandum filed with Assembly bill number 925 entitled "An act to repeal chapter 281 of the laws of 1892, entitled 'An act to incorporate the Albany and Bath-on-Hudson Bridge Company, and to authorize the construction of a bridge across the Hudson river at the city of Albany, and the appurtenances to said bridge'" — Approved

This bill was transmitted to the city of Albany for action under the provisions of section two of article twelve of the Constitution, and was returned by the mayor of that city not accepted. I think that the

bill is not a special city law within the meaning of the Constitution, and that it need not have been transmitted to the city

LEVI P. MORTON

VETO OF ASSEMBLY BILL No. 2504 RE-
LATING TO THE CIVIL SERVICE

STATE OF NEW YORK

Executive Chamber

Albany, May 29, 1896

Memorandum filed with Assembly bill number 2504 entitled "An Act to amend chapter three hundred and fifty-four of the Laws of eighteen hundred and eighty-three, entitled 'An act to regulate and improve the civil service of the State of New York, and the acts amendatory thereof, relating to the law department'—Not approved

The object of this bill seems to be to exempt from civil service examinations persons applying for positions as assistant city attorney or assistant corporation counsel.

The bill seems to be unnecessary for the reason that the mayor of each city is authorized to prescribe regulations for the admission of persons into the civil service of such city, which regulations are subject to the approval of the New York Civil Service Commission. I am informed that officers like those named are not now subject to examination in any city in the State, and persons holding these positions are almost necessarily lawyers who before admission to the bar must have passed an examination by the Regents, and by the Law Examiners or the Supreme

Court under rules prescribed by the Court of Appeals. Their work as city attorney or corporation counsel is professional, and of the same general character as that in which they would otherwise engage in private practice; and it is probable for this reason that it is not considered necessary to subject them to a civil service examination for the performance of official duties which are simply professional.

LEVI P. MORTON

VETO OF SENATE BILLS Nos. 1762 TO 1816
(55 IN NUMBER) FOR THE BENEFIT OF
SUNDRY PERSONS EMPLOYED ON THE
CANALS

STATE OF NEW YORK

Executive Chamber

Albany, May 29, 1896

Memorandum filed with Senate bill number 1762 entitled "An Act for the benefit of M. M. Manville" and also 54 other Senate bills numbering from 1763 to 1816, inclusive, for the benefit of Thomas S. Croly; Charles R. Lisk; S. S. Bennett; H. F. Fox; Henry C. Jillson; Frank Hotchkiss; Charles H. Bartlett; Isaac Mincher; Elmer Curtis; Everett W. Allen; Jacob Galster; William H. Brackett; Frank G. Parsons; W. L. Misner; L. G. Burton; Bertram E. Stewart; Wm. Hay;

Ansel E. Wright; Wm. F. Wheelock; W. H. Lintner; Charles D. W. Poole; Louis Meyer; John W. McClelland; Joseph McGrain; W. K. Williams; A. A. Willington; J. P. Monty; R. G. Lay; Michael Morey; James W. Strait; Philo Bundy; Robert D. Kennedy; Peter O'Neil; Wm. Stryker; R. R. Stowell; John H. Price; Geo. Van Deusen; Wm. A. Lenway; Andrew Dorn; George E. Terry; Isaac G. Braman; Leonard Clift; M. Traffarn; George R. Cornish; George D. Cull; Charles H. Sarle; Thomas Keefe; Hiram Hyde; Henry Kraft; John E. Jones; Frank Perry; Robert Calderwood; J. H. Pearson; D. W. Fisher — Not approved

These bills make specific appropriations of money for the several persons above named, without stating any particular object or occasion, and it is provided in each bill that payment shall be made only by the persons named "executing to the people of the State of New York a release of all claims and demands whatsoever growing out of the performance of his duties in the public works department of this State during the year 1895."

By chapter 234 of the Laws of 1896 jurisdiction was conferred upon the Board of Claims to hear, audit and determine the claims of the persons named, and to award such compensation for services rendered and expenditures incurred by them "as in-

spectors of canals, collectors of canal statistics, clerks to collectors of canal statistics, engineers and time-keepers in the State of New York between the 16th day of April, 1895, and the 15th day of February, 1896, as may be just and equitable."

It is conceded that these men have rendered services to the State for which they have received no compensation, and this law seems to afford ample opportunity for them to establish their claims against the State and receive payment therefor. By the bills now under consideration the claims seem to be limited to the 31st day of December 1895, while under the law cited claims may be presented for services rendered prior to February 15th 1896. The Board of Claims is a tribunal provided by the State for the hearing and determination of claims against it, and these claims were I think properly submitted to that Board. After having submitted these matters to the Board of Claims the propriety of these bills may well be doubted, especially in view of the provisions of section nineteen of article three of the Constitution, which provides that "The Legislature shall neither audit nor allow any private claim or account against the State, but may appropriate money to pay such claims as shall have been audited and allowed according to law." I do not think that these bills should be approved.

LEVI P. MORTON

VETO OF SENATE BILL No. 1099 GIVING
THE BOARD OF CLAIMS JURISDICTION
IN THE CASE OF THE SILVERSMITHS'
COMPANY

SENATE BILL No. 1096 TO AMEND THE
GAME LAW

SENATE BILL No. 1308 TO AMEND THE
GAME LAW

SENATE BILL No. 1381 TO INCORPORATE
THE AMERICAN TITLE INSURANCE
AND TRUST COMPANY

SENATE BILL No. 685 RELATING TO
HOUSES OF REFUGE

SENATE BILL No. 1076 TO AMEND THE
CODE OF CRIMINAL PROCEDURE

SENATE BILL No. 934 TO AMEND THE
CODE OF CIVIL PROCEDURE

SENATE BILL No. 1353 RELATING TO LIM-
ITED PARTNERSHIPS

SENATE BILL No. 1267 RELATING TO
TOWN MEETINGS IN ALBANY AND
ONONDAGA COUNTIES

SENATE BILL No. 1471 AMENDING THE
SCHOOL LAW AS TO RICHMOND
COUNTY

SENATE BILL No. 1751 RELATING TO A
SCHOOL DISTRICT IN FLUSHING,
QUEENS COUNTY

SENATE BILL No. 1292 RELATING TO VIL-
LAGE TAXES IN TONAWANDA, ERIE
COUNTY

SENATE BILL No. 1438 TO AMEND THE
CHARTER OF THE VILLAGE OF WAR-
SAW

SENATE BILL No. 602 TO PROVIDE THE
VILLAGE OF WATERVILLE WITH OPEN-
AIR CONCERTS

SENATE BILL No. 1439 RELATING TO THE
PUBLIC HEALTH IN THE CITY OF
CORNING

SENATE BILL No. 905 TO AMEND THE
CHARTER OF THE CITY OF ITHACA

SENATE BILL No. 1432 TO AMEND THE
CHARTER OF THE CITY OF LOCKPORT

SENATE BILL No. 1538 TO LEGALIZE CER-
TAIN BONDS OF THE CITY OF NEW-
BURGH

SENATE BILL No. 1389 TO AMEND THE
CHARTER OF THE CITY OF NEW-
BURGH

SENATE BILL No. 221 GRANTING JURISDICTION TO THE BOARD OF CLAIMS IN THE CITY OF ROCHESTER

SENATE BILL No. 993 RELATING TO CERTAIN CORPORATIONS AND EMPLOYEES OF THE CITY OF NEW YORK

SENATE BILL No. 1602 RELATING TO PARKWAYS IN THE CITY OF BROOKLYN

SENATE BILL No. 983 RELATING TO STREET COMMISSIONERS IN THE LATE TOWN OF FLATBUSH

SENATE BILL No. 997 TO AMEND THE PUBLIC HEALTH LAW

SENATE BILL No. 1687 TO LEGALIZE THE ACTS OF NOTARY PUBLIC H. NOYES GREEN

ASSEMBLY BILL No. 1667 FOR THE BETTER SECURITY OF THE LIVES OF PASSENGERS

ASSEMBLY BILL No. 2548 GIVING THE BOARD OF CLAIMS JURISDICTION IN CASES OF CERTAIN AUCTIONEERS

ASSEMBLY BILL No. 2410 GIVING THE BOARD OF CLAIMS JURISDICTION IN THE CASE OF HENRY A. FROST

ASSEMBLY BILL No. 2771 FOR THE RELIEF
OF ABIAL B. PARKS

ASSEMBLY BILL No. 2411 GIVING THE
BOARD OF CLAIMS JURISDICTION IN
THE CASE OF ROSS AND SANDFORD

ASSEMBLY BILL No. 1954 GIVING THE
BOARD OF CLAIMS JURISDICTION IN
THE CASE OF ABIGAIL J. SADLER

ASSEMBLY BILL No. 1730 TO AMEND THE
GAME LAW

ASSEMBLY BILL No. 1051 TO AMEND THE
GAME LAW

ASSEMBLY BILL No 746 TO AMEND THE
GAME LAW

ASSEMBLY BILL No. 2594 TO AMEND THE
INSURANCE LAW

ASSEMBLY BILL No. 2397 TO AMEND
THE TRANSPORTATION CORPORA-
TIONS LAW

ASSEMBLY BILL No. 2540 TO AMEND THE
CODE OF CRIMINAL PROCEDURE

ASSEMBLY BILL No. 1341 TO AMEND THE
CODE OF CRIMINAL PROCEDURE

ASSEMBLY BILL No. 741 RELATING TO
THE EXEMPTION FROM TAXATION OF
MINISTERS AND PRIESTS

ASSEMBLY BILL No. 1980 RELATING TO
THE COLLECTION OF TAXES

ASSEMBLY BILL No. 1173 RELATING TO A
PUBLIC HIGHWAY IN WESTCHESTER
COUNTY

ASSEMBLY BILL No. 1767 FOR THE PRO-
TECTION OF FUR-BEARING ANIMALS

ASSEMBLY BILL No. 1090 AUTHORIZING
COUNTY CLERKS AND DEPUTIES TO
TAKE ACKNOWLEDGMENTS

ASSEMBLY BILL No. 2429 FIXING THE
COMPENSATION OF ELECTION OFFI-
CIALS

ASSEMBLY BILL No. 2738 TO ABOLISH THE
BOARD OF WATER COMMISSIONERS
OF COHOCTON

ASSEMBLY BILL No. 276 RELATING TO
COMPENSATION OF OFFICERS OF THE
TOWN OF CORTLANDT, WESTCHESTER
COUNTY

ASSEMBLY BILL No. 1481 AMENDING THE
GAME LAW

ASSEMBLY BILL No. 1978 RELATING TO
TAXES IN THE VILLAGE OF ELMWOOD,
ONONDAGA COUNTY

ASSEMBLY BILL No. 1484 TO AUTHORIZE
THE VILLAGE OF PLATTSBURGH TO
BORROW MONEY

ASSEMBLY BILL No. 2423 TO AMEND THE
CHARTER OF THE CITY OF BUFFALO

ASSEMBLY BILL No. 2760 TO AMEND THE
CHARTER OF THE CITY OF ROCH-
ESTER

ASSEMBLY BILL No. 171 RELATING TO
THE QUEEN CITY GAS LIGHT COM-
PANY OF BUFFALO

ASSEMBLY BILL No. 2446 AUTHORIZING
THE CITY OF HORNELLSVILLE TO
CONTRIBUTE TO THE ST. JAMES,
MERCY HOSPITAL

ASSEMBLY BILL No. 1898 TO AUTHORIZE
THE CITY OF NEWBURGH TO CON-
TRIBUTE TO THE ST. LUKE'S HOME

ASSEMBLY BILL No. 2018 RELATING TO
PUBLIC PARKS IN ROCHESTER

ASSEMBLY BILL No. 2706 TO AMEND THE
CHARTER OF THE CITY OF NEW YORK

ASSEMBLY BILL No. 2045 TO AMEND THE
ELECTION LAW

ASSEMBLY BILL No. 1117 TO AMEND THE
EXECUTIVE LAW

ASSEMBLY BILL No. 73 RELATING TO
THE RE-ASSESSMENT OF ILLEGALLY
ASSESSED PROPERTY

ASSEMBLY BILL No. 1893 TO AMEND THE
LAW REGULATING THE HOURS OF
LABOR OF STATE EMPLOYEES

ASSEMBLY BILL No. 1400 TO AMEND THE
MECHANICS' LIEN LAW

ASSEMBLY BILL No. 1719 TO AMEND THE
CIVIL SERVICE LAW

ASSEMBLY BILL No. 928 RELATING TO
STENOGRAPHERS FOR GRAND JURIES

ASSEMBLY BILL No. 936 TO ENCOURAGE
THE MANUFACTURE OF SUGAR

ASSEMBLY BILL No. 1497 TO PROVIDE FOR
THE ASSESSMENT OF DOGS ON THE
TONAWANDA RESERVATION

ASSEMBLY BILL No. 1699 TO PROVIDE FOR
THE WIDENING OF NEWTOWN CREEK

ASSEMBLY BILL No. 1869 RELATING TO
CHARITABLE TRUSTS

ASSEMBLY BILL No. 931 TO ENABLE
ALIENS TO HOLD REAL ESTATE

ASSEMBLY BILL No. 1642 TO LEGALIZE
ACTS OF E. MERRIAM BAGG, A JUSTICE
OF THE PEACE

ASSEMBLY BILL No. 2516 TO LEGALIZE
THE ACTS OF WILLIAM HALE AND
FRANK W. REID, JUSTICES OF THE
PEACE

STATE OF NEW YORK

Executive Chamber

Albany, May 30, 1896

The following bills remaining in my hands and previously undisposed of are not approved because of defective drafting, questionable propriety or objectionable provisions :

Senate bill number 1099 entitled "An act conferring jurisdiction upon the Board of Claims to hear, audit and determine the claim of the Silver-smiths' Company against the State of New York."

Senate bill number 1196 entitled "An act to amend chapter nine hundred and seventy-four of the laws of eighteen hundred and ninety-five, entitled 'An act for the protection, preservation and propagation of birds, fish and wild animals in the State of New York and the different counties thereof.'"

Senate bill number 1308 entitled "An act to amend section one hundred and thirty-two of article six of chapter four hundred and eighty-eight of the laws of eighteen hundred and ninety-two as amended by chapter nine hundred and seventy-four of the laws of eighteen hundred and ninety-five."

Senate bill number 1381 entitled "An act to incorporate the American Title Insurance and Trust Company."

Senate bill number 685 entitled "An act to amend section seven hundred and one of the Penal Code, relative to houses of refuge."

Senate bill number 1076 entitled "An act to amend section two hundred and twenty of the Code of Criminal Procedure."

Senate bill number 934 entitled "An act to amend the Code of Civil Procedure."

Senate bill number 1353 entitled "An act to amend title one, chapter four, part second of the Revised Statutes in reference to limited partnerships."

Senate bill number 1267 entitled "An act to provide for the time of the annual town meeting in the several towns of the counties of Albany and Onondaga."

Senate bill number 1471 entitled "An act to amend the consolidated school law in relation to Richmond county."

Senate bill number 1751 entitled "An act amend-

ing an act entitled 'An act to establish free schools in district number three of the town of Flushing,' passed April sixteenth, eighteen hundred and fifty-seven, as amended by chapter four hundred and thirty-four of the laws of eighteen hundred and eighty-five, and to increase the school tax rate therein."

Senate bill number 1292 entitled "An act providing for the assessment and collection of village taxes in the village of Tonawanda, Erie county."

Senate bill number 1438 entitled "An act to amend chapter eighty-three of the laws of eighteen hundred and sixty, entitled 'An act to consolidate and amend the several acts relating to the village of Warsaw, and to enlarge the powers of the corporation of said village.'"

Senate bill number 602 entitled "An act to authorize the board of trustees of the village of Waterville, Oneida county, to raise money by tax for the purpose of open-air concerts."

Senate bill number 1439 entitled "An act to amend chapter four hundred and twenty-six of the laws of eighteen hundred and ninety-two, entitled 'An act to provide for the preservation of the public health and the protection of persons and property from the waters of the Chemung river and its tributaries within the corporate limits of the city of Corning, and to restrain and control such waters, and to provide the means to secure such protection and restraint.'"

Senate bill number 905 entitled "An act to amend the charter of the city of Ithaca."

Senate bill number 1432 entitled "An act to further amend chapter one hundred and twenty of the laws of eighteen hundred and eighty-six, entitled 'An act to revise the charter of the city of Lockport,' relative to wages of laborers to be paid by contractors, and preference to be given."

Senate bill number 1538 entitled "An act to legalize certain bonds of the city of Newburgh, dated April first, eighteen hundred and ninety-six, to provide for the payment of the expense of the paving of Water street, between South and Broad streets, in said city, issued in pursuance of the authority conferred on said city by chapter three hundred and one of the laws of eighteen hundred and ninety-four."

Senate bill number 1389 entitled "An act to amend chapter five hundred and forty-one of the laws of eighteen hundred and sixty-five, entitled 'An act to incorporate the city of Newburgh,' and the several acts amendatory thereof."

Senate bill number 221 entitled "An act to amend chapter ten hundred and seventeen of the laws of eighteen hundred and ninety-five, entitled 'An act to authorize the board of claims to hear, audit and determine certain claims of the city of Rochester against the State.'"

Senate bill number 993 entitled "An act to regulate the exercise of their franchises by certain public

corporations by requiring them to afford facilities for the transaction of the public business to certain public officers and employees of the city of New York."

Senate bill number 1602 entitled "An act in relation to the construction and management of the public driveway and parkway in the city of Brooklyn, authorized and acquired under and in pursuance of the provisions of chapter seven hundred and fifty-eight of the laws of eighteen hundred and ninety-four, entitled 'An act to provide for the selection, laying out, construction and maintenance of a public driveway and parkway, and for the acquisition of riparian rights in connection therewith in any county of this State which contains a city, the population of which city is in excess of eight hundred thousand and the boundaries of which city are not coterminous with those of said county, and also providing the means of payment therefor, and maintenance thereof, and creating a department of parks for said county,' as amended by chapter nine hundred and thirty-one of the laws of eighteen hundred and ninety-five."

Senate bill number 983 entitled "An act to transfer the powers and duties of street and sewer commissioners of the twenty-ninth ward, late town of Flatbush, to the commissioner of city works of the city of Brooklyn."

Senate bill number 997 entitled "An act to amend section twenty-one of chapter six hundred and sixty-

one of the laws of eighteen hundred and ninety-three, entitled 'An act in relation to the public health.' "

Senate bill number 1687 entitled "An act to legalize and confirm the official acts of H. Noyes Green, a notary public."

Assembly bill number 1667 entitled "An act for the better security of the lives of passengers on the waters of the State of New York, not covered by the laws governing the United States steamboat inspection service, and making an appropriation therefor."

Assembly bill number 2548 entitled "An act to authorize the board of claims to hear and audit the claims of certain auctioneers and to make awards thereon."

Assembly bill number 2410 entitled "An act conferring jurisdiction upon the court of claims to hear, audit and determine the amount of the claim of Henry A. Frost against the State, and to make an award therefor."

Assembly bill number 2771 entitled "An act for the relief of Abial B. Parks for failure of title of lands derived from the State of New York."

Assembly bill number 2411 entitled "An act to confer jurisdiction upon the board of claims to hear, audit and determine the claim of Ross and Sandford against the State, for work, labor and services done and performed in and about the construction of the Shinnecock and Peconic Bays canal, and for the

amount of money deposited by said Ross and Sandford as security for the performance of said work, and to make an award thereon."

Assembly bill number 1954 entitled "An act to authorize the board of claims to hear, audit and determine the claim of Abigail J. Sadler, and to make an award thereon."

Assembly bill number 1730 entitled "An act to amend chapter four hundred and eighty-eight of the laws of eighteen hundred and ninety-two, entitled 'An act for the protection, preservation and propagation of birds, fish and wild animals in the State of New York and the different counties thereof,' in relation to wild fowl."

Assembly bill number 1051 entitled "An act amending the game law, and the act amendatory thereof, in relation to certain fish that may be caught through the ice in lakes named."

Assembly bill number 746 entitled "An act to amend section one hundred and forty-three of the fisheries, game and forest law, so as to prohibit eel-weirs in the Chemung river and its tributaries in the counties of Steuben and Chemung."

Assembly bill number 2594 entitled "An act to amend the insurance law relating to the authority of an agent of a foreign fire insurance corporation."

Assembly bill number 2397 entitled "An act to amend chapter five hundred and sixty-six of the laws of eighteen hundred and ninety, entitled 'An act in

relation to transportation corporations, excepting railroads, constituting chapter forty of the general laws,' and known as the transportation corporations law, relating to inspectors of gas meters."

Assembly bill number 2540 entitled "An act to amend section two hundred and six of the Code of Criminal Procedure relative to the payment of fees for transcripts of depositions and testimony."

Assembly bill number 1341 entitled "An act to amend section two hundred and twenty of the Code of Criminal Procedure, relating to justices' criminal docket."

Assembly bill number 741 entitled "An act to amend subdivision eight of section four of title one of chapter thirteen of part one of the Revised Statutes, in relation to the exemption from taxation of the real property of ministers or priests."

Assembly bill number 1980 entitled "An act to amend the Revised Statutes, in relation to the collection of taxes."

Assembly bill number 1173 entitled "An act to authorize the continuance and maintenance of a public highway in Westchester county, from Peekskill to a point on the boundary line between the States of New York and Connecticut near North Salem."

Assembly bill number 1767 entitled "An act for the protection of fur-bearing animals in the counties of this State."

Assembly bill number 1090 entitled "An act authorizing county clerks and their deputies to take acknowledgments and proofs of instruments."

Assembly bill number 2429 entitled "An act fixing the compensation of inspectors of election, poll clerks and ballot clerks in certain counties."

Assembly bill number 2738 entitled "An act to abolish the board of water commissioners of the village of Cohocton, county of Steuben."

Assembly bill number 276 entitled "An act to reduce expenses in the town of Cortlandt, in the county of Westchester, and provide for salaries of justices of the peace and overseers of the poor for said town."

Assembly bill number 1481 entitled "An act relating to the hounding of deer in the towns of Dresden and Putnam, in the county of Washington."

Assembly bill number 1978 entitled "An act in relation to the enforcement and collection of taxes in and for the village of Elmwood, in the county of Onondaga."

Assembly bill number 1484 entitled "An act to authorize the village of Plattsburgh to borrow money for the improvement of the streets, sidewalks and sewers within its limits."

Assembly bill number 2423 entitled "An act to amend chapter one hundred and five of the laws of eighteen hundred and ninety-one, entitled 'An act to revise the charter of the city of Buffalo,' and the act

amendatory thereof, in relation to public improvements.”

Assembly bill number 2760 entitled “An act to amend chapter one hundred and forty-three of the laws of eighteen hundred and sixty-one, entitled ‘An act to amend and consolidate the several acts in relation to the charter of the city of Rochester,’ and the acts amendatory thereof and supplemental thereto, and to repeal section seventeen and subdivision twenty-six of section forty of said act.”

Assembly bill number 171 entitled “An act to repeal an An act entitled ‘An act to authorize the Queen City Gaslight Company of Buffalo, New York, to supply gas in the city of Buffalo.’”

Assembly bill number 2446 entitled “An act to authorize the common council of the city of Hornellsville, to pay a portion of the liquor tax moneys received in such city, to the treasurer of Saint James’ Mercy hospital.”

Assembly bill number 1898 entitled “An act authorizing the commissioners of the alms-house of the city and town of Newburgh, in the county of Orange, to pay to Saint Luke’s Home and Hospital, of Newburgh, a sum not to exceed one thousand dollars per annum, toward the maintenance of the poor of said city, who may be admitted into said home and hospital.”

Assembly bill number 2018 entitled “An act to amend chapter one hundred and ninety-three of the

laws of eighteen hundred and eighty-eight, entitled 'An act to authorize the selection, location and acquiring of certain grounds for public parks and parkways, in and near the city of Rochester, and to provide for the maintenance and embellishment thereof,' as amended by chapter nine hundred and fifty-eight of the laws of eighteen hundred and ninety-five."

Assembly bill number 2706 entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' as amended by chapter two hundred and sixty-nine of the laws of eighteen hundred and ninety-two, in relation to the cleaning of the streets, avenues, public places, wharves, piers and heads of slips in said city."

Assembly bill number 2045 entitled "An act to amend chapter six hundred and eighty of the laws of eighteen hundred and ninety-two, entitled 'An act in relation to the elections, constituting chapter six of the general laws.'"

Assembly bill number 1117 entitled "An act to amend 'The Executive Law,' relating to the duties and powers of the attorney-general."

Assembly bill number 73 entitled "An act in relation to the reassessment of property illegally assessed."

Assembly bill number 1893 entitled "An act to

amend chapter three hundred and eighty-five of the laws of eighteen hundred and seventy, entitled 'An act to regulate the hours of labor of mechanics, workmen and laborers in the employ of the State, or otherwise engaged on public works,' as amended by chapter six hundred and twenty-two of the laws of eighteen hundred and ninety-four."

Assembly bill number 1400 entitled "An act for the protection of mechanics and others."

Assembly bill number 1719 entitled "An act to amend chapter three hundred and fifty-four of the laws of eighteen hundred and eighty-three, entitled 'An act to regulate and improve the civil service of the State of New York,' and the acts amendatory thereof, relating to the law department."

Assembly bill number 928 entitled "An act to amend chapter three hundred and forty-eight of the laws of eighteen hundred and eighty-five, entitled 'An act to authorize the appointment of stenographers for grand juries and to fix the compensation of such stenographers,' as amended by chapter eighty-two of the laws of eighteen hundred and ninety-four."

Assembly bill number 936 entitled "An act to provide for the encouragement of the manufacture of sugar and to provide a compensation therefor."

Assembly bill number 1497 entitled "An act to provide for the assessment of dogs on the Tona-

wanda Indian Reservation in the counties of Erie and Genesee.”

Assembly bill number 1699 entitled “An act to provide for the widening of Newtown creek and to establish the bulkhead lines thereof.”

Assembly bill number 1869 entitled “An act to promote the public welfare by providing for the creation of trusts for receiving and holding property, real and personal, for the purpose of maintaining, or aiding to maintain, any humane, charitable or religious society or corporation within this State.”

Assembly bill number 921 entitled “An act to enable certain aliens to take, hold and convey real estate.”

Assembly bill number 1642 entitled “An act to legalize the official acts of E. Merriam Bagg, a justice of the peace of the town of West Turin, county of Lewis, and to authorize him to file the certificate of the town clerk, as to the filing of his bond, and to take and subscribe the official oath.”

Assembly bill number 2516 entitled “An act to legalize the acts of William Hale and Frank W. Reid, as justices of the peace in and for the town of Johnstown, in the county of Fulton.”

LEVI P. MORTON

VETO OF SENATE BILL No. 71 TO INCORPORATE THE WARD'S ISLAND BRIDGE COMPANY

SENATE BILL No. 327 TO AMEND THE CODE OF CIVIL PROCEDURE

SENATE BILL No. 1092 TO AMEND THE CODE OF CIVIL PROCEDURE

SENATE BILL No. 1413 TO CREATE SIDE-PATH COMMISSIONERS IN ONEIDA COUNTY

SENATE BILL No. 1200 TO AMEND THE CHARTER OF THE CITY OF BUFFALO

SENATE BILL No. 893 TO AMEND THE CHARTER OF THE CITY OF BUFFALO

SENATE BILL No. 1703 TO AMEND THE CHARTER OF THE CITY OF BUFFALO

SENATE BILL No. 1297 RELATING TO UNPAID TAXES IN LONG ISLAND CITY

SENATE BILL No. 1349 TO PROVIDE A WATER SUPPLY FOR LONG ISLAND CITY

SENATE BILL No. 945 RELATING TO PARKS IN LONG ISLAND CITY

SENATE BILL No. 1143 RELATING TO PARKS IN THE CITY OF ROCHESTER

SENATE BILL No. 833 AMENDING THE
CHARTER OF THE CITY OF SYRACUSE

SENATE BILL No. 1513 RELATING TO
THE COMPENSATION OF OFFICERS OF
CITY FIRE DEPARTMENTS

SENATE BILL No. 477 RELATING TO
COMPENSATION OF COURT ATTEND-
ANTS IN THE FIRST JUDICIAL DISTRICT

SENATE BILL No. 1541 TO INCREASE
THE SALARY OF STREET COMMIS-
SIONER OF THE TWENTY-THIRD AND
TWENTY-FOURTH WARDS IN NEW
YORK CITY

SENATE BILL No. 734 RELATING TO
THE JURISDICTION OF THE PARK COM-
MISSIONERS OF NEW YORK CITY

SENATE BILL No. 634 RELATING TO
PUBLIC PARKS IN NEW YORK CITY

SENATE BILL No. 88 FOR THE RELIEF
OF SOPHIA G. VANDERVOORT

SENATE BILL No. 1640 FOR THE
RELIEF OF ISIDOR BALL

SENATE BILL No. 1691 FOR THE
RELIEF OF JAMES P. REILLY

SENATE BILL No. 1633 FOR THE
RELIEF OF MARGARET HUDSON

SENATE BILL No. 1255 AMENDING THE
CHARTER OF THE CITY OF NEW YORK

SENATE BILL No. 994 TO AMEND THE
CHARTER OF THE CITY OF NEW YORK

SENATE BILL No. 976 TO AMEND THE
CHARTER OF THE CITY OF NEW YORK

SENATE BILL No. 1346 TO AMEND THE
CHARTER OF THE CITY OF NEW YORK

SENATE BILL No. 1692 TO AMEND THE
CHARTER OF THE CITY OF BROOKLYN

SENATE BILL No. 1634 RELATING TO
COMMON LANDS IN THE LATE TOWN
OF GRAVESEND

SENATE BILL No. 608 FOR THE WIDEN-
ING OF KENT AVENUE, BROOKLYN .

SENATE BILL No. 811 TO SECURE THE
REGISTRATION OF PLUMBERS

ASSEMBLY BILL No. 2433 TO CREATE
SIDE-PATH COMMISSIONERS IN CHE-
MUNG COUNTY

ASSEMBLY BILL No. 2329 TO PROVIDE A
SUPPLY OF WATER FOR THE CITY OF
ALBANY

ASSEMBLY BILL No. 2303 RELATING TO ASSESSMENTS IN THE CITY OF ALBANY

ASSEMBLY BILL No. 2116 FOR A VIADUCT ON KNOX STREET IN THE CITY OF ALBANY

ASSEMBLY BILL No. 2295 RELATING TO COMMITMENT OF PRISONERS IN THE COUNTY OF ALBANY AND THE COMPENSATION OF THE SHERIFF OF SAID COUNTY

ASSEMBLY BILL No. 2632 PROVIDING FOR THE REPAYMENT OF MONEYS BY THE SUPERINTENDENT OF PUBLIC WORKS

ASSEMBLY BILL No. 1941 TO AMEND THE CHARTER OF THE CITY OF BUFFALO

ASSEMBLY BILL No. 2077 RELATING TO THE WATER SUPPLY OF THE CITY OF DUNKIRK.

ASSEMBLY BILL No. 1378 RELATING TO THE LIGHTING OF THE CITY OF LOCKPORT

ASSEMBLY BILL No. 1760 TO AMEND THE CHARTER OF LONG ISLAND CITY

ASSEMBLY BILL No. 1568 RELATING TO STREET IMPROVEMENTS IN LONG ISLAND CITY

ASSEMBLY BILL No. 2583 TO AMEND THE CHARTER OF THE CITY OF NIAGARA FALLS

ASSEMBLY BILL No. 2412 TO CREATE SIDE-PATH COMMISSIONERS IN MONROE COUNTY

ASSEMBLY BILL No. 2495 AUTHORIZING THE CITY OF ROCHESTER TO ISSUE BONDS

ASSEMBLY BILL No. 2217 AUTHORIZING THE CITY OF ROCHESTER TO ISSUE BONDS

ASSEMBLY BILL No. 2491 AUTHORIZING THE CITY OF ROCHESTER TO ISSUE BONDS

ASSEMBLY BILL No. 1682 AUTHORIZING THE CONSTRUCTION OF PARK BOULEVARDS IN THE CITY OF ROCHESTER

ASSEMBLY BILL No. 990 FOR THE CONSTRUCTION OF A STONE CULVERT IN SYRACUSE

ASSEMBLY BILL No. 2514 AUTHORIZING THE CITY OF SYRACUSE TO ISSUE BONDS

ASSEMBLY BILL No. 2686 TO AMEND
THE CHARTER OF THE CITY OF UTICA

ASSEMBLY BILL No. 2561 TO AUTHORIZE
THE CITY OF UTICA TO RAISE MONEY
FOR BRIDGE PURPOSES

ASSEMBLY BILL No. 1244 FOR THE
TRANSCRIBING OF INDICTMENTS IN
NEW YORK CITY

ASSEMBLY BILL No. 2143 FOR THE RE-
LIEF OF WILLIAM MAHONEY

ASSEMBLY BILL No. 2492 RELATING TO
THE UNIFORMS OF FIREMEN AND PO-
LICEMEN IN THE CITY OF NEW YORK

ASSEMBLY BILL No. 2393 RELATING TO
ASSISTANT CLERKS OF THE CITY COURT
OF NEW YORK

ASSEMBLY BILL No. 2684 RELATING TO
CLAIMS AGAINST CERTAIN VILLAGES IN
WESTCHESTER COUNTY RECENTLY AN-
NEXED TO NEW YORK

ASSEMBLY BILL No. 2260 RELATING TO
APPOINTMENTS IN THE NEW YORK CITY
FIRE DEPARTMENT

ASSEMBLY BILL No. 1580 RELATING TO
STREET OBSTRUCTIONS IN NEW YORK
CITY

ASSEMBLY BILL No. 2758 AMENDING
THE CHARTER OF THE CITY OF NEW
YORK

ASSEMBLY BILL No. 2385 TO AMEND
THE CHARTER OF THE CITY OF NEW
YORK

ASSEMBLY BILL No. 340 TO PROVIDE
FOR THE LIGHTING OF THE BROOKLYN
BRIDGE

ASSEMBLY BILL No. 2710 RELATING
TO THE COMMITMENT OF FEMALE DE-
LINQUENTS IN THE CITY OF BROOKLYN

ASSEMBLY BILL No. 1394 TO REGULATE
THE RUNNING OF CARS ON THE BROOK-
LYN BRIDGE

ASSEMBLY BILL No. 1824 RELATING TO
THE WAGES OF EMPLOYEES IN THE CITY
OF BROOKLYN

ASSEMBLY BILL No. 2174 TO AMEND
THE CHARTER OF THE CITY OF BROOK-
LYN

ASSEMBLY BILL No. 1929 TO AMEND
THE CHARTER OF THE CITY OF BROOK-
LYN

ASSEMBLY BILL No. 2301 TO AMEND
THE CHARTER OF THE CITY OF BROOK-
LYN

STATE OF NEW YORK

Executive Chamber

Albany, May 30, 1896

The following bills were not accepted by the cities which they affect, and therefore are not approved :

Senate bill number 71 entitled "An act to incorporate the Ward's Island Bridge Company, for the purpose of constructing and maintaining a permanent bridge for passenger and other traffic over the waters between the twenty-third ward of New York city and Long Island City, in the State of New York, together with all necessary connections, appurtenances and approaches thereto and stations."

Senate bill number 327 entitled "An act to amend sections thirty-one hundred and thirty-one and thirty-two hundred and twenty-one of the Code of Civil Procedure, relating to actions by employes for wages and materials furnished."

Senate bill number 1092 entitled "An act to amend the Code of Civil Procedure in relation to the compensation of jurors."

Senate bill number 1413 entitled "An act to authorize the supervisors of Oneida county to appoint

side-path commissioners to tax cycles and to expend the funds raised thereby in the construction of side-paths for cycles.”

Senate bill number 1200 entitled “An act to further amend chapter one hundred and five of the laws of eighteen hundred and ninety-one, entitled ‘An act to revise the charter of the city of Buffalo.’”

Senate bill number 893 entitled “An act to amend chapter one hundred and five of the laws of eighteen hundred and ninety-one, entitled ‘An act to revise the charter of the city of Buffalo’ and the acts amendatory thereof.”

Senate bill number 1703 entitled “An act to amend chapter eight hundred and five of the laws of eighteen hundred and ninety-five, entitled ‘An act to amend chapter one hundred and five of the laws of eighteen hundred and ninety-one, entitled ‘An act to revise the charter of the city of Buffalo.’”

Senate bill number 1297 entitled “An act in relation to unpaid taxes, water rates and rents in Long Island City.”

Senate bill number 1349 entitled “An act to provide for an additional supply of water in Long Island City.”

Senate bill number 945 entitled “An act to amend chapter three hundred and one of the laws of eighteen hundred and ninety, entitled ‘An act in relation to certain parks and parade ground in Long Island City.’”

Senate bill number 1143 entitled "An act authorizing the city of Rochester to acquire certain lands for park purposes."

Senate bill number 833 entitled "An act to further amend chapter twenty-six of the laws of eighteen hundred and eighty-five, entitled 'An act to revise, amend and consolidate the several acts in relation to the city of Syracuse, and to revise and amend the charter of said city.'"

Senate bill number 1513 entitled "An act in relation to the compensation of the officers of the uniform force of the fire department in all cities of the state having, according to the last census, a population exceeding fifteen hundred thousand."

Senate bill number 477 entitled "An act in relation to the salaries of attendants of the Supreme Court in the first judicial district, and the appellate division thereof in the first department, and the court of general sessions of the peace in and for the city and county of New York."

Senate bill number 1541 entitled "An act to increase the salary of the commissioner of street improvements of the twenty-third and twenty-fourth wards of the city of New York, and his deputy."

Senate bill number 734 entitled "An act in relation to the jurisdiction of the department of public parks in the city of New York over certain streets in said city."

Senate bill number 634 entitled "An act for the

protection of the public parks of the city of New York.”

Senate bill number 88 entitled “An act for the relief of Sophia G. Vandervoort, widow of Charles Vandervoort, deceased, her successors or assigns.”

Senate bill number 1640 entitled “An act to permit Isidor Ball, of the city of New York, to maintain an action brought by him against the mayor, aldermen and commonalty of the city of New York, for negligence.”

Senate bill number 1691 entitled “An act to enable the board of fire commissioners of the city of New York to hear and determine the claim of James P. Reilly, for reinstatement in the fire department of the city of New York as a fireman of the first grade.”

Senate bill number 1633 entitled “An act to amend chapter nine hundred and seventy-eight of the laws of eighteen hundred and ninety-five, entitled ‘An act to authorize the board of fire commissioners of the city of New York to inquire into and determine the claim of Margaret Hudson to be placed upon the pension roll of the fire department of said city, and to make an allowance to her for pension.’”

Senate bill number 1255 entitled “An act to amend chapter one hundred and eighty of the laws of eighteen hundred and eighty-four, entitled ‘An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled ‘An act

to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York, and to provide a pension fund for the police department in New York city.’”

Senate bill number 994 entitled “An act to amend subdivision four of section eighty-six of chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled ‘An act to consolidate into one act and to declare the special and local laws affecting the public interests in the city of New York.’”

Senate bill number 976 entitled “An act to repeal section two of chapter six hundred and ninety-one of the laws of eighteen hundred and ninety-five, entitled ‘An act to amend section twenty-one hundred and thirty-three of chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled ‘An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,’ relative to Hell Gate pilots.’”

Senate bill number 1346 entitled “An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled ‘An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,’ and the acts amendatory thereof, relating to the fire department of the city of New York.”

Senate bill number 1692 entitled “An act to

amend chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn,' in relation to the department of buildings."

Senate bill number 1364 entitled "An act to amend sections four and five of chapter six hundred and thirty-eight of the laws of eighteen hundred and ninety-five, being an act entitled 'An act in relation to the common lands and common land fund of the late town of Gravesend, now the thirty-first ward of the city of Brooklyn.'"

Senate bill number 608 entitled "An act to amend chapter nine hundred and fifty-five of the laws of eighteen hundred and ninety-five, entitled 'An act to authorize the common council of the city of Brooklyn to alter the commissioners' map of said city by widening Kent avenue between South Eighth street and Broadway.'"

Senate bill number 811 entitled "An act to amend chapter six hundred and two of the laws of eighteen hundred and ninety-two, entitled 'An act to secure the registration of plumbers and the supervision of plumbing and draining in the cities of the State of New York.'"

Assembly bill number 2433 entitled "An act to authorize the supervisors of Chemung county to appoint side-path commissioners and to expend the

funds raised by the taxation of cycles in the construction of side-paths for cycles.”

Assembly bill number 2329 entitled “An act to provide for a supply of water in the city of Albany.”

Assembly bill number 2303 entitled “An act to amend chapter six hundred of the laws of eighteen hundred and ninety-three, entitled ‘An act to reduce, confirm and levy certain assessments in the city of Albany, to provide for the payment thereof, and in relation to certain sales thereunder’ as amended by chapter six hundred and twenty-nine of the laws of eighteen hundred and ninety-four.”

Assembly bill number 2116 entitled “An act to authorize the construction of a viaduct on Knox street, in the city of Albany from the north curb line of Central avenue to the south curb line of Canal street, for the improvement of Knox street between State street and the north line of Livingston avenue, and to provide for the expenses thereof.”

Assembly bill number 2295 entitled “An act to amend chapter two hundred and eighteen of the laws of eighteen hundred and eighty-four, entitled ‘An act to regulate the commitment and discharge of certain prisoners, tramps and vagrants in Albany county, and to prescribe the effect thereof, to provide for the support of the prisoners in the jail in the city of Albany, and to fix the duties and compensation of the sheriff of said county and of certain employees in the jail in said city.’”

Assembly bill number 2632 entitled "An act to amend chapter five hundred and ninety of the laws of eighteen hundred and ninety-four, entitled 'An act to provide for the repayment of moneys to the chamberlain of the city of Albany, heretofore paid to the superintendent of public works, for the construction of a lift or hoist bridge on Water street, over the Erie canal in the city of Albany, and the repayment of the same by the said city.'"

Assembly bill number 1941 entitled "An act to amend chapter one hundred and five of the laws of eighteen hundred and ninety-one, entitled 'An act to revise the charter of the city of Buffalo,' in relation to assessments."

Assembly bill number 2077 entitled "An act to amend section one of chapter three hundred and eighty of the laws of eighteen hundred and ninety-two, entitled 'An act to provide for increasing the water supply of the city of Dunkirk.'"

Assembly bill number 1378 entitled "An act to authorize the establishment and operation of a system for lighting the city of Lockport with electric light and to empower the common council of said city to raise the necessary funds for that purpose."

Assembly bill number 1760 entitled "An act to amend chapter four hundred and sixty-one of the laws of eighteen hundred and seventy-one, entitled 'An act to revise the charter of Long Island City,' in relation to moneys received by the treasurer."

Assembly bill number 1568 entitled "An act to provide for certain improvements in the streets, avenues, highways, boulevards and public places in Long Island City, and for the payment of the expenses thereof."

Assembly bill number 2583 entitled "An act to amend chapter one hundred and forty-three of the laws of eighteen hundred and ninety-two, entitled 'An act to incorporate the city of Niagara Falls,'"

Assembly bill number 2412 entitled "An act to authorize the board of supervisors of Monroe county to appoint side-path commissioners, to tax cycles and to expend the funds raised thereby in the construction of side-paths for cycles."

Assembly bill number 2495 entitled "An act authorizing the city of Rochester to issue bonds to pay the expense of remodeling the city hall building."

Assembly bill number 2217 entitled "An act authorizing the city of Rochester to issue its bonds for water works purposes."

Assembly bill number 2491 entitled "An act authorizing the city of Rochester to issue its bonds for the purpose of redeeming bonds heretofore issued for building a free academy."

"Assembly bill number 1682 entitled "An act to amend chapter three hundred and seventeen of the laws of eighteen hundred and ninety-one, entitled 'An act to authorize the construction and maintenance of park boulevards in and near the city of

Rochester, and to provide for the cost and expense thereof.'”

Assembly bill number 990 entitled “An act to authorize the city of Syracuse to levy a tax to provide the means to defray the cost of constructing a stone culvert over Harbor brook, in Lake View avenue, in the city of Syracuse.”

Assembly bill number 2514 entitled “An act to authorize the city of Syracuse to borrow money by the issue of bonds and to provide for the appointment of commissioners for the acquiring of title to the necessary land for a sight for, and the erection of, a new high school in said city.”

Assembly bill number 2686 entitled “An act to amend chapter eighteen of the laws of eighteen hundred and sixty-two, entitled ‘An act to revise the charter of the city of Utica,’ and the several acts amendatory thereof.”

Assembly bill number 2561 entitled “An act to amend chapter three hundred and forty-one of the laws of eighteen hundred and ninety-one, entitled ‘An act to provide for the removal of the Genesee street bridge over the Erie canal in the city of Utica, and for the erection of an iron bridge and hoist or lift bridges, with necessary approaches in its stead, and making an appropriation therefor, and authorizing the city of Utica to raise money for the construction thereof,’ as amended by chapter five hundred and

sixty of the laws of eighteen hundred and ninety-three."

Assembly bill number 1244 entitled "An act providing for the transcribing of indictments in the city and county of New York."

Assembly bill number 2143 entitled "An act to authorize the board of fire commissioners of the city of New York to inquire into and to determine the claim of William Mahoney to be placed upon the pension roll of the fire department of said city."

Assembly bill number 2492 entitled "An act in relation to the uniforms of the officers and members of the fire and police departments of the city of New York."

Assembly bill number 2393 entitled "An act in relation to the assistant clerks of the city court of New York."

Assembly bill number 2684 entitled "An act to provide for the audit and payment of legal claims and demands against the town of Westchester, the village of Williamsbridge, the village of Eastchester and the village of Wakefield, now a part of the city and county of New York."

Assembly bill number 2260 entitled "An act relating to appointment of employes of the fire department of the city of New York to the uniformed force of the said department."

Assembly bill number 1580 entitled "An act providing for the removal of incumbrances and obstruc-

tions upon the streets, sidewalks and public grounds in the twenty-third and twenty-fourth wards in the city of New York.”

Assembly bill number 2758 entitled “An act to amend title two, section four hundred and sixty-three of the consolidation act of the city of New York, in relation to the power of the board of fire commissioners of the said city.”

Assembly bill number 2385 entitled “An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled ‘An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,’ and the acts amendatory thereof, relating to the department of finance.”

Assembly bill number 340 entitled “An act to provide for the lighting of the Brooklyn bridge during fogs.”

Assembly bill number 2710 entitled “An act relating to the commitment of female delinquents in the city of Brooklyn and county of Kings to the Wayside Home; and concerning the public interests in the city of Brooklyn and county of Kings.”

Assembly bill number 1394 entitled “An act regulating the running of cars on the New York and Brooklyn bridge.”

Assembly bill number 1824 entitled “An act in relation to the wages of employees on public works in the city of Brooklyn.”

Assembly bill number 2174 entitled "An act to amend section six of title two of chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn,' relating to the city clerk."

Assembly bill number 1929 entitled "An act to amend title sixteen of chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn,' relating to a pension fund for the members of the park police."

Assembly bill number 2301 entitled "An act to amend chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight, entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn,' as amended by chapter four hundred and eighty-one of the laws of eighteen hundred and ninety-four and chapter five hundred and thirty-nine of the laws of eighteen hundred and ninety-five, relating to fire limits."

LEVI P. MORTON

VETO OF SENATE BILL No. 1240 RELATING TO SECOND AVENUE IN LONG ISLAND CITY

ASSEMBLY BILL No. 1836 RELATING TO ASSESSMENTS FOR PINE AVENUE IN THE CITY OF ALBANY

ASSEMBLY BILL No. 1401 AUTHORIZING THE CITY OF ELMIRA TO ISSUE BONDS

ASSEMBLY BILL No. 2057 TO AMEND THE CHARTER OF THE CITY OF SYRACUSE

STATE OF NEW YORK

Executive Chamber

Albany, May 30, 1896

The following bills were not returned by the mayors of the cities which they affect, within the fifteen days specified by the Constitution, and are therefore not approved :

Senate bill number 1240 entitled "An act to reduce the width of Second avenue in Long Island City, in the county of Queens."

Assembly bill number 1836 entitled "An act to extend the time of payment of certain assessments for paving Pine avenue in the city of Albany, and in relation to certain sales thereunder."

Assembly bill number 1401 entitled "An act authorizing the city of Elmira to issue bonds for pro-

viding and equipping a building for the fire department."

Assembly bill number 2057 entitled "An act to amend chapter twenty-six of the laws of eighteen hundred and eighty-five, entitled "An act to revise, amend and consolidate the several acts in relation to the city of Syracuse, and to revise and amend the charter of said city,' relating to Onondaga creek and Harbor brook."

LEVI P. MORTON

VETO OF SENATE BILL No. 1309 RELATING TO THE WATER SUPPLY OF THE CITY OF MOUNT VERNON

ASSEMBLY BILL No. 2159 TO AMEND THE CHARTER OF THE CITY OF MOUNT VERNON

ASSEMBLY BILL No. 1727 RELATING TO ONONDAGA CREEK IN THE CITY OF SYRACUSE

STATE OF NEW YORK

Executive Chamber

Albany, May 30, 1896.

The following bills were not acted upon by the cities which they affect, as is required by the Constitution, and therefore are not approved :

Senate bill number 1309 entitled “An act in relation to supplying the city of Mount Vernon with pure and wholesome water.”

Assembly bill number 2159 entitled “An act to amend chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two, entitled ‘An act to incorporate the city of Mount Vernon.’”

Assembly bill number 1727 entitled “An act to amend chapter one hundred and four of the laws of eighteen hundred and sixty-seven, entitled ‘An act to provide for draining and filling up of the old channel of Onondaga creek, between the south bounds of the city of Syracuse and Onondaga street, in said city, and for straightening and deepening the channel of said creek, between said Onondaga street and the bridge across said creek north of West Genesee street and near the pump-house, and for the removing encroachments on and obstructions in said channel,’ as amended by chapter seven hundred and seventy of the laws of eighteen hundred and sixty-seven, relating to Onondaga creek.”

LEVI P. MORTON

MATTER OF NEWELL, COUNTY CLERK —
NOTICE AND SUMMONS

STATE OF NEW YORK

Executive Chamber

*In the matter of the charges preferred against Frank
B. Newell the county clerk of the county of Broome
— Notice and summons.*

To FRANK B. NEWELL *The County Clerk of the
County of Broome :*

You are hereby notified that charges of extortion in office have been preferred against you by Andrew A. White of the city of Binghamton in this State, and a copy of such charges is herewith served upon you.

You are therefore required to show cause why you should not be removed from the office of County Clerk of the county of Broome, and to answer the said charges within eight days after service of this order and a copy of said charges upon you.

Given under my hand and the Privy Seal of
the State at the Capitol in the city of
[L s] Albany this thirtieth day of June in the
year of our Lord one thousand eight
hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

APPOINTMENT OF AN EXTRAORDINARY
SPECIAL TERM OF THE SUPREME
COURT AT MAYVILLE

STATE OF NEW YORK

Executive Chamber

IT APPEARING to my satisfaction that the public interest requires it ;

THEREFORE in accordance with the statute in such case made and provided I do hereby appoint an Extraordinary Special Term of the Supreme Court to be held at the court-house in the village of Mayville and county of Chautauqua, on Monday the twenty-seventh day of July, 1896, at ten o'clock in the forenoon of that day and to continue so long as may be necessary for the disposal of the business which may be brought before it ; and I do hereby designate the

Honorable JOHN WOODWARD

of the city of Jamestown, who is a Justice of the Supreme Court of this State, to hold the said Extraordinary Special Term as hereinbefore described ; and I do further direct that notice of such appointment be given by publication of this order once in each week for two successive weeks in the Jamestown *Journal* and the Jamestown *News* newspapers published in the city of Jamestown.

Given under my hand and the Privy Seal of
the State at the Capitol in the city of

[L S] Albany this tenth day of July in the year
of our Lord one thousand eight hundred
and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

TEMPORARY DESIGNATION OF JUSTICE
O'BRIEN AS ASSOCIATE JUSTICE OF
THE APPELLATE DIVISION FOR THE
SECOND DEPARTMENT

STATE OF NEW YORK

Executive Chamber

IT APPEARING to my satisfaction that the public
interest requires it ;

THEREFORE In accordance with the Constitution
and the statute in such case made and provided I do
hereby designate the

Honorable MORGAN J. O'BRIEN

of the city of New York, who is a Justice of the
Supreme Court in and for the First Judicial District,
to sit in the Appellate Division of the Supreme Court
for the Second Department during the absence
therefrom of the Honorable CALVIN E. PRATT, who
was heretofore designated as an associate justice
thereof.

Given under my hand and the Privy Seal of
the State at the Capitol in the city of
[L S] Albany this sixteenth day of July in the
year of our Lord one thousand eight
hundred and ninety-six.

LEVI P. MORTON

By the Governor :

SELDEN E. MARVIN JR.

Acting Private Secretary

ASSIGNMENT OF JUSTICE LEWIS TO
DUTY IN THE SUPREME COURT IN
THE EIGHTH JUDICIAL DISTRICT

STATE OF NEW YORK

Executive Chamber

WHEREAS The term of office of the Honorable LORAN L. LEWIS, a Justice of the Supreme Court in and for the Eighth Judicial District, having been abridged on the 31st day of December last by the limitation of age prescribed by section twelve of article six of the Constitution and he having thereby become entitled to continue to receive for the remainder of the term for which he was elected, to wit until the 31st day of December in the year 1896, the compensation established by law and which compensation is now being received by him ; and

WHEREAS He having consented to be assigned

by the Governor to the duty in the Supreme Court which is hereinafter certified, and it appearing to my satisfaction that the public interest requires it ;

Therefore By virtue of the power conferred upon me by section twelve of article six of the Constitution and upon the filing of his written consent to such assignment I do hereby assign the

Honorable LORAN L. LEWIS

to hear and determine any application or applications which may be made to him by or on behalf of August Beck, the late sheriff of the county of Erie, for additional compensation for his trouble and expenses in taking possession of and preserving property upon several warrants of attachment issued to and to be executed by the said August Beck as sheriff of the county of Erie by the said Honorable LORAN L. LEWIS as a Justice of the Supreme Court, prior to the abridgment of his term of office as aforesaid, in actions pending against the Genesee Oil Works, limited.

Given under my hand and the Privy Seal of
the State at the Capitol in the city of
[L S] Albany this sixteenth day of July in
the year of our Lord one thousand
eight hundred and ninety-six.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE

Private Secretary

MATTER OF NEWELL, COUNTY CLERK —
ORDER DISMISSING CHARGES, WITH
ACCOMPANYING OPINION

STATE OF NEW YORK

Executive Chamber

In the matter of the charges preferred against Frank B. Newell the county clerk of the county of Broome — Order dismissing charges.

Charges of misconduct in office having been heretofore preferred by Andrew A. White of the city of Binghamton against Frank B. Newell the county clerk of the county of Broome, and a copy of such charges having been duly served upon the said Frank B. Newell, and he having filed his answers thereto, and it appearing to me that the public interest does not demand that further proceedings be had in this matter ; therefore it is hereby

Ordered that the said charges against the said Frank B. Newell be and the same are hereby dismissed.

Given under my hand and the Privy Seal of
the State at the Capitol in the city of
[L S] Albany this thirty-first day of August
in the year of our Lord one thousand
eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

OPINION

STATE OF NEW YORK

Executive Chamber

Albany, August 31, 1896

*In the matter of the charges preferred against Frank B. Newell, County Clerk of the county of Broome —
Opinion.*

Andrew A. White, of the city of Binghamton, has preferred charges against Frank B. Newell, county clerk of Broome county, alleging in substance that he is guilty of official misconduct in taking certain fees in advance, and also in charging and receiving fees for official services in excess of the amount allowed by law. Two sets of charges have been preferred, one under date of March 10, 1896, relating to the taking of fees in advance, and the other under date of March 25, 1896, relating to the taking of excessive fees. Copies of these charges were served upon the county clerk and his answers have been filed.

He admits the taking of the fees charged by the petitioner, but denies that they were in excess of the amounts allowed by law. He also admits that the fees for recording certain deeds and mortgages were paid to him at the time the papers were left at his office for record, and claims that this is not taking fees in advance within the meaning of the law. The

supposed excessive fees were collected by Mr. Newell for the recording of certain deeds and mortgages presented to him for record by Mr. White, and it seems that the words in the several instruments were not counted for the purpose of ascertaining precisely the amount legally chargeable, but that, in accordance with the general custom in the offices of county clerks, the number of folios in each instrument was estimated when it was presented and the fee for recording was based upon such estimate. The county clerk denies any intention to violate the law, and claims that he simply followed the general custom.

The question is now presented whether the charges may be properly disposed of upon the petitions and answers, or whether a commissioner should be appointed or other proceedings taken for a further investigation. The amount of alleged excessive fees collected is small, but if the facts warrant a finding that the clerk is habitually and intentionally charging more fees than the law permits, it is a proper matter for investigation by the Governor or by some judicial tribunal, and a finding of a continual violation of law in this respect would justify the removal of the county clerk from office. But it should be clear I think that the facts fairly warrant such a finding. It is a matter of common knowledge that county clerks estimate the number of folios in an instrument to be recorded and fix the price accordingly;

and if persons wishing instruments recorded acquiesce in this custom and do not object to this method of estimating fees and insist upon a count, errors may occur, and they may in some instances pay more than the legal rate. But any person presenting an instrument to the county clerk for record may himself determine beforehand the amount of fees to which the clerk is entitled, and may decline to pay any more. The clerk is liable in a civil action for the excess collected, and it seems that in this matter Mr. White brought an action against the clerk in a Justices' Court to recover the alleged excess included in the charges herein, and a jury decided that he was not entitled to recover any amount from the clerk. No appeal has been taken from this decision, and it stands as a final determination by a competent tribunal, so far as it relates to the taking of excessive fees. In view of this judicial determination, I do not deem it necessary or proper to order a further investigation of the matter.

Upon the question of taking fees in advance, it seems that Mr. White presented to the county clerk deeds and mortgages for record in his office, and that fees for recording such instruments were collected at the time they were left for record and before they had actually been recorded. Mr. White claims that this is taking fees in advance and is a violation of law. It is claimed by the clerk that taking fees under such circumstances is not taking

them in advance, for the reason that by the provisions of the recording act an instrument is considered as recorded from the time of its delivery to the clerk for that purpose; and that transcribing an instrument into a book is a mere clerical act not in any manner affecting the validity of the record, which becomes complete for all purposes under the recording act immediately upon the delivery of the instrument to the clerk, and as to all the world he has already in law performed the service for which he receives compensation.

Here again we are referred to the general custom of county clerks, and it can hardly be said that these public officers usually, persistently and intentionally violate the law and subject themselves to criminal prosecution by accepting compensation for recording an instrument at the time it is left with them for record.

Mr. White also claims that the clerk violated the law in taking fees for certifying an order of the Supreme Court from Broome county to Orange county. The clerk claims that this fee is properly chargeable under the provisions of the Code of Civil Procedure, and it seems to be the common custom of county clerks to charge for this service.

The admission by the clerk that he received fees at the time the instruments were left with him for record, leaves for consideration only a question of law as to the right of the clerk to accept compensation be-

fore the recording was actually done. It seems to me quite clear that taking fees under such circumstances is not taking them in advance — within the meaning of the statute. The recording act gives effect to the deed or mortgage as notice immediately upon its delivery to the clerk; and it would be a strange condition of the law and the rights of persons if the person delivering the instrument could have all the benefit of the record, but could not be compelled to pay the fees until the instrument had been actually written out in a book. The rights and obligation of the clerk and of persons dealing with him should be mutual; and if an instrument, upon its delivery to the clerk, is considered as recorded, the clerk is clearly I think entitled to then receive the compensation for the service which he has already legally rendered.

It seems to have been the general custom of county clerks to receive fees for recording instruments at the time they were left for record, and this custom seems to have been followed by Mr. Newell. Such a custom, reasonable in itself, not injurious nor oppressive to the citizen, can scarcely be made a sufficient basis for the removal of a county clerk. It has already been determined that the fees charged were not excessive; and it would be an unjustifiable exercise of power by the Governor to remove an officer for simply accepting the compensation to which he was clearly entitled.

A proceeding before the Governor for the removal of a public officer is in the nature of an impeachment, and to justify a removal it should clearly appear that the officer has been guilty of a violation or neglect of official duty which would render his further continuance in office prejudicial to the public interest. It does not appear that Mr. White or any other citizen has been injured by any act of the clerk. There is no evidence of oppression or neglect of official duty. Eliminating from further consideration the question of excessive fees, which has already been determined in favor of the clerk by the verdict of a jury, there is left only the question of the right of the clerk to receive the fees for recording at the time the papers were delivered for record; and if that question is even doubtful the clerk should have the benefit of that doubt, as well as of the presumption that every public officer has done his duty, until the contrary clearly appears.

It is not probable that further investigations of this matter would elicit any additional facts, and upon the case as it now stands I do not think the clerk should be removed. I think the case may properly be disposed of upon the petitions and answers; that the circumstances do not justify the appointment of a commissioner to take evidence, and that no further investigation need be made. The charges are therefore dismissed.

LEVI P. MORTON

ASSIGNMENT OF JUSTICE LEWIS TO
DUTY IN THE SUPREME COURT IN
THE EIGHTH JUDICIAL DISTRICT

STATE OF NEW YORK

Executive Chamber

WHEREAS The term of office of the Honorable LORAN L. LEWIS as Justice of the Supreme Court in and for the Eighth Judicial District having been abridged on the thirty-first day of December last by the limitation of age prescribed by section 12 of article VI of the Constitution, and he having thereby become entitled to continue to receive for the remainder of the term for which he was elected, to wit until the thirty-first day of December in the year 1896, the compensation established by law and which compensation is now being received by him; and

WHEREAS He having consented to be assigned by the Governor to the duty in the Supreme Court which is hereinafter specified, and it appearing to my satisfaction that the public interest requires it;

Therefore By virtue of the power conferred upon me by section 12 of article VI of the Constitution and upon filing of his written consent to such assignment I do hereby assign the

Honorable LORAN L. LEWIS

to preside at and hold part two of the regular Special

and Trial Term of the Supreme Court heretofore duly appointed to be held at Buffalo in the county of Erie in the Eighth Judicial District on the third Monday of September, 1896.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L s] Albany this sixteenth day of September in the year of our Lord one thousand eight hundred and ninety-six.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE

Private Secretary

REVOCATION OF THE TEMPORARY
DESIGNATION OF JUSTICE O'BRIEN
AS ASSOCIATE JUSTICE OF THE APPELLATE
DIVISION FOR THE SECOND DEPARTMENT

STATE OF NEW YORK

Executive Chamber

WHEREAS The Honorable MORGAN J. O'BRIEN, a Justice of the Supreme Court of the First Judicial District, having been heretofore designated to sit as an associate justice of the Appellate Division of the Supreme Court in and for the Second Judicial Department, and he having filed his written request that such designation be revoked,

Now therefore In accordance with the statute in such case made and provided the designation heretofore made of date the 16th day of July, 1896, of the Honorable MORGAN J. O'BRIEN to sit as Associate Justice of the Appellate Division of the Supreme Court in and for the Second Judicial Department is hereby and at his own request revoked.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
 [L S] Albany this thirtieth day of September in the year of our Lord one thousand eight hundred and ninety-six.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE

Private Secretary

DESIGNATION OF JUSTICE BRADLEY AS
 ASSOCIATE JUSTICE OF THE APPEL-
 LATE DIVISION FOR THE SECOND DE-
 PARTMENT

STATE OF NEW YORK

Executive Chamber

WHEREAS The term of office of the Honorable GEORGE B. BRADLEY as Justice of the Supreme Court in and for the Seventh Judicial District having

been abridged on the thirty-first day of December last by the limitation of age prescribed by section twelve of article six of the Constitution, and he having thereby become entitled to continue to receive for the remainder of the term for which he was elected, to wit until the thirty-first day of December in the year 1897, the compensation established by law and which compensation is now being received by him ; and

WHEREAS He having consented to be assigned by the Governor to the duty in the Supreme Court which is hereinafter specified, and it appearing to my satisfaction that the public interest requires it;

Therefore By virtue of the power conferred upon me by sections two and twelve of article six of the Constitution and upon the filing of his written consent to such assignment, I do hereby assign the said

Honorable GEORGE B. BRADLEY

to the duty in the Supreme Court hereinafter specified and do designate him as Associate Justice of the Appellate Division of the Supreme Court in and for the Second Judicial Department in the place of the Honorable CALVIN E. PRATT, deceased, late an Associate Justice in said Appellate Division, for and during the term ending December 31, 1897.

Given under my hand and the Privy Seal of
the State at the Capitol in the city of

[L s] Albany this thirtieth day of September

in the year of our Lord one thousand eight
hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

MATTER OF LATHROP, SUPERINTEND-
ENT OF STATE PRISONS—ORDER
DISMISSING CHARGES, WITH ACCOM-
PANYING OPINION

STATE OF NEW YORK

Executive Chamber

*In the matter of the charges preferred against Austin
Lathrop, the Superintendent of State Prisons — Or-
der dismissing charges.*

Charges of misconduct in office and neglect of duty having been heretofore preferred by John M. Wever and Jehial B. White against Austin Lathrop the Superintendent of State Prisons of the State of New York and a copy of said charges having been duly served upon the said Austin Lathrop, and he having filed his answer thereto denying any misconduct or neglect of duty, and an order having been made by me appointing the Honorable ELON R. BROWN of Watertown the commissioner to take the testimony and examination of witnesses as to the

truth of said charges and to report the same to me and also the material facts which he deemed to be established by the evidence, and the said commissioner having taken the testimony relating to such charges and in refutation thereof, and his report bearing date June 30, 1896, and the evidence taken by him having been duly filed, and it appearing to me after a careful examination of the same that the facts disclosed in this proceeding are not sufficient to warrant the finding that the superintendent is guilty of negligence or misconduct which would justify his removal from office ; therefore it is hereby

Ordered That the said charges against the said Austin Lathrop be and the same are hereby dismissed.

Given under my hand and the Privy Seal of
the State at the Capitol in the city of
[Ls] Albany this seventh day of October in
the year of our Lord one thousand eight
hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

OPINION

STATE OF NEW YORK

Executive Chamber

Albany, October 7, 1896.

*In the matter of the charges preferred against Austin Lathrop, the Superintendent of State Prisons—
Opinion.*

This proceeding, involving an inquiry into the affairs of the prison department, originated in a concurrent resolution adopted by the Legislature in February, 1895, providing for a special joint committee of the two houses to investigate several State departments. A sub-committee was appointed to investigate the State prisons. The testimony taken by that committee was submitted to the Legislature, together with a report which bears date May 1, 1895. This testimony and a copy of the report were, by concurrent resolution, transmitted to the Governor, "to the end that he may take such action thereon as such report and the testimony may require." The report and testimony were received by me, and after examination were deemed insufficient to set in motion an executive inquiry into the affairs of the prison department. The investigation by the Legislature was a legitimate exercise of power by a co-ordinate branch of the State government, and it had an undoubted right to inquire into the management of the

State prisons for the purpose of obtaining information for its guidance in framing appropriate legislation and for other purposes ; but this investigation could not I thought be made the basis of an inquiry by the Governor under the power conferred upon him by the Constitution, unless formal charges were also made and submitted to him. The power of removal of the superintendent is vested in the Governor, and it can only be exercised after charges preferred, a copy of which must be served upon the superintendent and an opportunity given him to be heard in his own defence, and I think it is not contemplated by the Constitution or the statute that the Governor should himself formulate charges and also act in a judicial capacity in determining the question of removal. The testimony taken by the sub-committee and its report addressed to the Legislature, while containing a statement of certain facts and the inferences which the committee thought fairly deducible therefrom, did not constitute "charges" within the meaning of the Constitution. My conclusion not to act upon the report was communicated to the chairman of the sub-committee, and subsequently formal charges was filed against Mr. Lathrop by John M. Wever and Jehial B. White, citizens of Clinton county, and the testimony and report taken and submitted by the legislative sub-committee were made a part of the charges and specifications. A copy of the charges were served upon Mr. Lathrop, who an-

swered thereto in writing. Hon. Elon R. Brown, of Watertown, was appointed commissioner to take testimony in the proceeding and report the same, together with the material facts deemed by him to be established by the evidence, and his report, bearing date June 30, 1896, and the evidence taken by him, have been duly filed.

The charges in the petition comprise thirteen counts, and the petitioners set forth with considerable detail their reasons for asking the removal of the superintendent. Briefly stated the charges are as follows :

First. That the agent and warden at Auburn prison purchased for the use of the prison large quantities of an inferior quality of beef ; that he paid therefor more than the market price, and more than the price at which good beef was offered to him by other responsible persons.

Second. That the agent and warden at Auburn prison sold a large quantity of scrap-iron and brass, together with a quantity of ingot brass, for \$75, that was really worth from \$700 to \$1,000.

Third. That the agent and warden at Auburn prison sold a large number of horse collars manufactured at said prison for a sum much less than the market value, and that the record of such sale was improperly kept for the purpose of concealing the same.

Fourth. That the so-called "general ledger book"

at Auburn prison, intended to contain a summary of each year's business, was not written up or balanced for the fiscal years ending September, 1892, and September, 1893, until a visit to such prison of an expert accountant sent by the Comptroller to examine into the accounts of said prison in the spring of 1895.

Fifth. That Charles N. Smith has for a long time held two offices and drawn two salaries at Auburn prison, to wit : one thousand dollars as superintendent of industries, and one thousand dollars as store-keeper. That one Peterson has received a salary of twelve hundred dollars a year as hospital keeper, while the law only allows nine hundred dollars a year, and that accounts of contractors are allowed to run an unreasonable length of time without settlement.

Sixth. That in the hollow-ware industry and the iron-casting industry at Auburn prison, the superintendent permitted a change from the "public account" system to the "piece price" system ; that such change was improvident for the reason that large profits which had theretofore been received from these industries were thereafter lost.

Seventh. That the superintendent permitted the labor of convicts to be contracted, let or hired to contractors at a given price per day, contrary to the prison law.

Eighth. That the superintendent unlawfully permitted the principal keeper at Sing Sing prison to occupy and live in a house belonging to the State

for a long period of years without the payment of rent.

Ninth. That the superintendent wrongfully and unlawfully permitted the principal keeper at Sing Sing prison to sit in judgment upon the evil doings of refractory prisoners, and prescribe the punishment to be inflicted therefor, without the intervening advice or knowledge of the agent and warden of said prison ; and that cruel and inhuman punishment was there inflicted in violation of law, with the consent of the superintendent.

Tenth. That the superintendent negligently permitted the officers of Sing Sing prison to accept a contract to place locks upon the prison cells of said prison in the year 1893, which enabled the contractors to realize a profit of \$5,000 on a contract which was let for \$13,600.

Eleventh. That the superintendent has been guilty of gross laxity and mismanagement of the affairs of Clinton prison, in permitting prisoners thereat to enjoy unlawful liberties outside the prison walls.

Twelfth. That the superintendent has permitted some of the wardens and other officers of the prisons to use the property of the State for their own private gain, and to purchase property for the State at prices largely in excess of its real value for the purpose of thereby receiving to themselves some gain or advantage.

The petitioners allege generally that all the fore-

going acts charged to have been committed by the subordinates in the prison department were all with the knowledge, consent and approval of the superintendent.

Thirteenth. The petitioners also allege that an investigation of the affairs of the prison department was instituted by the Legislature in the spring of 1895. That the evidence taken by the legislative committee showed that improper, illegal and corrupt acts had been committed by the agents, wardens and other officials of the several prisons, and that the superintendent knew, or had reason to know, of such unlawful acts. That whether he knew of them or not, he was advised thereof by the testimony taken by the committee and its report, and notwithstanding the disclosures made by such investigation, he has retained and kept such agents and other officials in the employ of the State, and in the positions of trust and responsibility occupied by them, knowing that they were unfit for the positions held by them, and knowing that a proper management of said prisons would cause their removal; and that in keeping them in office he has shown his unfitness for the office of superintendent.

The superintendent in his answer denies that he has been unmindful of his duty or has been guilty of any malfeasance or misconduct in the discharge of the duties of his office, or any improper or wrong doing. He also denies that he aided or abetted the

agent and warden at Auburn prison in the purchase of inferior beef or in the purchase of beef at an excessive price. He alleges that he instructed said agent to purchase beef where he could buy the cheapest, quality being considered, and that the prices paid for said beef were not excessive.

He admits the sale of the scrap-iron and brass mentioned in the second count, but alleges that the purchaser not only paid therefor seventy-five dollars but also agreed to and did clean up the site of one or two or more buildings of said prison which had been theretofore burned and which had contained the iron and brass thereafter sold as scrap.

He admits the sale of the horse collars, but alleges that they were shelf-worn and damaged and that the prices received were all that could be obtained and that the sales were made in the regular order of business, and duly entered upon the books of the prison without any secrecy or attempt to conceal the same.

He admits that the "general ledger book" had not been posted at the times stated in the petition, but says that this book is not a necessary part of the system of accounts; that all the information contained in it was accessible in other books and that it was but recently adopted as a matter of convenience.

He denies that Charles N. Smith has ever drawn two salaries, and alleges that he was industrial clerk and also performed the duties of storekeeper, for all

of which he received the sum of two thousand dollars per year; that he performs the duties of two officers who before the functions were combined together received twenty-eight hundred dollars per year, thus saving eight hundred dollars a year to the State.

He admits that Patterson, referred to in the fifth count as "Peterson," hospital steward, receives twelve hundred dollars a year for services, and he alleges that this compensation is fair and within the limit of the law. He also alleges that the accounts of contractors are "pressed for payment as hard and are collected as soon as it was practicable to do so."

He admits that the change from the "public account system" to the "piece price system" was made, but upon what he considered good business reasons, and alleges that in detail and as a whole it is much preferable for the State; that owing to the general business depression the profits have not been as large as had been received in former years, but that he believes they were greater than they would have been under the "public account system." He denies that, operating under the "piece-price system," the prices charged per piece were so regulated as to make the work of the prisoners amount to not more than fifty cents per day, but alleges that the sum of fifty cents per day is the general limit which experience has shown can be realized from the work

of convicts. He denies that any arrangement made in this connection was unlawful.

He admits that the principal keeper at Sing Sing prison has occupied a portion of the prison building without paying rent, but alleges that the building so occupied is known as the "extension" of the prison, formerly the women's prison, situated across the street and without the walls of the main prison; that a large number of prisoners were confined in this building, and it was considered advisable that the principal keeper should occupy a portion of it so that he might be accessible in case of any trouble; that the principal keeper occupied said building in the same way for a long time, beginning prior to the incumbency of the present superintendent, but that recently, his attention being called to the matter, he directed that the keeper pay rent for his residence, and that he is now paying rent at the rate of ten dollars a month.

He admits that the principal keeper at Sing Sing prison has heard complaints and prescribed punishments to prisoners and has been accustomed to attend to these duties for a long series of years; that he is an officer second only to the agent and warden and that it is often not practicable for the latter officer to attend to all cases of discipline. He alleges that his attention being called to the matter and doubt expressed about the power of the principal keeper to sit in judgment and prescribe punishments

for infringement of discipline, he directed the agent and warden to personally attend to complaints. He denies that cruel and inhuman punishments have been inflicted. He denies any negligence in making the contract for locks at Sing Sing prison, and alleges that the contract was let to the lowest bidder and strictly in accordance with law. He denies any laxity or mismanagement of the affairs of Clinton prison.

He also denies that the warden or other officers of the several State prisons have used property of the State for their own private gain, or paid from moneys belonging to the State prices in excess of the value of property for the purpose of receiving a rebate or any gain or advantage in consideration thereof.

He admits that the legislative investigation of the prisons was authorized in 1895 and that a committee took testimony and made a report thereon, which was made known to him, and he alleges that cross-examination of witnesses on the part of the prosecution before such committee was not permitted, nor was the reception of testimony in contradiction to such witnesses allowed; and he alleges that neither prior to said evidence and report nor since did he know, or have any reason to know, of any unlawful acts of officials connected with either of said prisons except as already admitted in his answer. He denies that he has retained and kept in the employment of the State in positions of trust and responsi-

bility any agents or wardens, knowing them to be unfit for the positions held by them, or knowing that a proper management of the prisons should cause their removal, and denies that he has in any way shown himself unfit for the office of superintendent.

The first count relates to the purchase of beef at Auburn prison, and it appears that for some six years, from 1888 to 1894, one Hiram W. Babcock had furnished beef most of the time for the prison and was furnishing it when James C. Stout became warden in May, 1893; and that a few days after Mr. Stout assumed the duties of his office an arrangement was made with Babcock by which he was to furnish beef for a year at five and one-half cents a pound. During that year several offers were made by one Charles A. Smith to furnish beef at a less price and the warden offered to abandon his contract with Babcock and make a new contract with Smith at a less price, to which Babcock consented; but Smith declined to make a contract for a longer time than one month. The warden testified that he did not consider it advisable to make the change for only one month, even at a price somewhat lower, and his action was approved by the superintendent. An arrangement however was made by which Smith and Babcock were both to furnish beef, one for a given period at the main prison and the other during the same period at the women's prison, alternating from month to month. The price agreed upon was five

and one-half cents a pound, and the arrangement continued several months. Smith testifies in substance that his offers were less than the market-price and that he did not intend them for any definite length of time, but for the purpose of competing with Babcock, and getting a share of the business, or else compelling Babcock to abandon his contract. There is evidence that five and one-half cents was the general average market-price for beef during this period and was about the price paid at the other prisons. The superintendent's attention being called to this subject by Smith, he instructed the warden to purchase meat where he could get it the cheapest, and advised him to take bids for it. Afterwards but not immediately the warden advertised for bids, and the contract was let in the summer of 1895 for five and one-quarter cents a pound. It is urged that the arrangement with Babcock to furnish meat was made through favoritism for him and was prejudicial to the interests of the State. I am not aware of any evidence that when the arrangement was made with Babcock there was any competition or any offer by any one else to furnish beef, or that the price paid was above the general market price. Mr. Stout says that he did not make any arrangement with Babcock until he had taken time to inquire about prices and found that five and one-half cents a pound was the usual price for beef of the quality which Babcock was to furnish; and that at this time he had

received no instructions from the superintendent. He had authority and it was his duty to supply provisions for the prison, either by contract or by purchase as might be directed by the superintendent, and in the absence of any instructions from the superintendent the entire discretion seems to be vested in him

It is urged that Mr. Stout ought to have made a contract with Smith even for a month and that he did not properly protect the interests of the State; but whether he acted prudently or not, it is not claimed and I think is not shown that the conduct of the superintendent concerning the purchase of beef at Auburn is subject to any criticism. It clearly appears that as soon as his attention was called to the matter he gave notice to the warden that supplies must be purchased as cheaply as possible, and advised the taking of bids as a means of procuring the most favorable contract of the State.

Second. In March, 1893, a building connected with Auburn prison in which the brass industry was carried on was destroyed by fire. The report of the warden to the superintendent estimates the loss in manufactured stock, finished and unfinished brass castings at \$8,506.41, and other material at \$4,035.76, machinery, etc., \$5.203. making a total loss of \$17,745.17. This fire had already occurred when Mr. Stout was appointed warden, and he testified that he inquired of his yardmaster what had usually

been done in such cases and the yardmaster replied that the scrap had been sold. Mr. Stout directed the yardmaster to sell the scrap and get ready to rebuild, and a few days afterwards the yardmaster reported to him that he had sold the scrap in the debris to Hiram W. Babcock for seventy-five dollars and Babcock was also to clean up the debris and clean out the cellar. This work Babcock did, and it is said to have been worth from four hundred to five hundred dollars. It seems that the warden made no particular examination to try to determine what was a reasonable price for the scrap, but left the matter to his yardmaster who followed the custom of the prison. It seems however that there was a large amount of scrap brass and iron in the debris and that the bargain was a very profitable one for Babcock. It is claimed that the arrangement with him was improvident and was made for the purpose of favoring him at the expense of the State. Whatever the motive, it seems quite clear that with an inventory showing that there was in the debris a quantity of brass and iron castings and material valued at nearly \$13,000, the warden did not use the best business judgment in allowing it to be disposed of for seventy-five dollars, even with the additional consideration that the purchaser was to clean up the cellar; but it does not appear that the superintendent had anything to do with the sale of the brass

to Babcock or knew about it until some time afterwards.

It also appears that Warden Stout sold to Hiram W. Babcock in the fall of 1893 a large quantity of ingot brass that was on hand at the time of the fire, amounting to about 23,000 pounds, for five cents a pound, and there is some evidence that this brass was worth seven or seven and one-half cents a pound. It was sold on credit and was removed to and stored in Babcock's cellar which was only a short distance from the prison, and Babcock made some arrangement for the sale of it to Osceola Goodelle who sold to Warden Stout a large quantity of it at seven and one-half cents a pound. The warden paid Goodelle, Goodelle paid Babcock, and Babcock afterwards paid Stout for the original purchase. There is no evidence that the superintendent knew of this transaction, but it appears that the facts relating to the fire and the loss were contained in the books of account of the prison and in the reports of the warden filed with him at Albany.

Third. Prior to December, 1893, a considerable number of horse collars had been manufactured at Auburn prison, many of which had become shelf-worn and somewhat unsalable. Warden Stout testifies that he sold sixty dozen of these collars to Hiram W. Babcock for \$3.40 a dozen, and it seems that Babcock employed an officer of the prison who had been laid off for a month without pay and sent

him through the eastern part of the State to sell the collars, and as orders for them were sent in to the prison they were shipped to the purchasers direct. The orders were entered upon a small pass book and afterwards upon a general account. It seems that Mr. Babcock made a profit on this transaction over all expenses of about \$190, and it is urged on behalf of the petitioners that the transaction was improvident and not really a sale, but an arrangement to favor Babcock and permit him to make a large profit upon the collars, and that he did not become liable for any more collars than were sold by his agent. If this was a sale in good faith to Babcock of a lot of collars for which he became absolutely liable to pay, it possibly involves only a question of good judgment on the part of the warden, although if the collars were fairly worth a much higher price, a sale for the sum named was not a proper exercise of official discretion and the transaction would be a fair subject of criticism. But the profit was apparently only about three dollars a dozen or twenty-five cents apiece. If it was an arrangement by which Babcock sent a man out to sell the collars and he assumed no risk, but was simply to pay \$3.40 a dozen for all the collars actually sold, it does not appear why the warden could not have sent out the same salesman himself and kept all the profit for the State. There is no evidence that the superintendent had any knowledge of

this transaction until after the investigation by the legislative committee in the spring of 1895.

Fourth. The general ledger kept at Auburn prison was not posted for the fiscal year ending September, 1894, and so remained until March, 1895. It does not appear that this book was a necessary part of the bookkeeping system of the prison, but was introduced at a comparatively recent date as a matter of convenience. Failure to post it at the time stated was not known by the superintendent until after the legislative investigation,

Fifth. It appears that Charles N. Smith received the sum of \$2,000 a year for services in two capacities, namely, one as superintendent of industries and one as storekeeper in the women's prison, but he performed substantially the services formerly performed by two women and for which they received \$2,800, so that the State really saved \$800 a year by the arrangement. The item in the fifth charge that the accounts of contractors were allowed to run an unreasonable length of time without settlement is not sustained by the evidence, but it seems that contracts were settled as rapidly as could conveniently be done.

Sixth. The charge that the superintendent improvidently permitted a change from the "public account" system to the "piece price" system does not seem to require much attention. Whether one system is better than the other is a matter of opinion

based upon experience. The superintendent thinks the "piece price" system superior to the other, but it is at most a question of good judgment. The prison law expressly gave the superintendent the discretion to use either system, or partly one and partly the other; and his choice cannot be the subject of criticism unless exercised under circumstances indicating a failure to properly examine the subject.

Seventh. The prison law in force at the time of the transactions sets forth in these charges prohibited the making of "any contract by which the labor or time of any prisoner in the State prison shall be contracted, let or hired to contractors at a price per day or for other period of time." It is claimed that at Auburn prison during a part of the years 1894 and 1895 contracts which had been made on the piece-price system were changed from time to time and so regulated as to make the work of the convicts employed under the contracts amount to a certain sum per day without regard to the number of pieces actually made, or the contract prices. The principal evidence to support this claim is that of an ex-convict who for a time acted as bookkeeper in the industrial department. The making of such changes or arrangements is denied by Warden Stout and by Mr. Mills, the book-keeper. It seems to be conceded that in determining the price to be charged per piece, the value of the labor of the convicts, their skill and experience and the amount of work which they could

perform, are necessary elements and must be considered, subject to experiment and change, especially in the case of new industries, and it seems that contracts were changed for the apparent purpose of making a more satisfactory adjustment of the prices to be charged for the labor of the convicts.

A letter from the Attorney-General, written in August, 1889, is in evidence, where in a reply to an inquiry from the superintendent's office he expresses the opinion that it would be proper to make an arrangement with a contractor in effect that if it were found that the convicts were not earning a reasonable sum per day the arrangement could be changed and the amount per piece increased so that the daily earnings of the men shall not be less than a given sum.

The prison authorities express the opinion that on an average the convicts do not earn more than forty-five or fifty cents a day. Whatever may be the truth concerning this charge, it is not claimed that the superintendent had knowledge of any facts leading him to believe that there were any transactions connected with the piece price system at Auburn either in violation or evasion of the prison law.

Eighth. For several years the principal keeper at Sing Sing prison was permitted to occupy a part of one of the prisons as a residence without the payment of rent. It seemed to be necessary for the keeper to reside in this building to preserve order and be

near the men who were under his immediate charge. It seems that in March, 1895, the attention of the superintendent was called to the fact that the occupancy of the building without charge by the keeper might not be proper, and since that time he has been paying rent. The commissioner in his report states that this charge was withdrawn. Further comment is therefore unnecessary.

Ninth. It appeared that for some time prior to March, 1895, the principal keeper at Sing Sing was permitted to sit in judgment upon the misconduct of refractory prisoners and prescribe the punishment to be inflicted therefor without the intervening advice of the agent and warden. The principal keeper is next to the warden in authority, and while under the law the warden is required to "exercise a general supervision over the government, discipline and police" of the prison, it seems reasonable that he should be permitted to delegate some part of his authority to the principal keeper. In this instance it is conceded that the principal keeper is a very competent official and that the powers which he has been permitted to exercise in regard to the discipline of the prison were not abused. It also seems that during a part of this same period punishment was sometimes inflicted upon the prisoners at Sing Sing by what is known as the "weighing machine," which consists in hanging a man up by the wrists. This punishment was devised at a critical period in the administration

of Sing Sing and was apparently the result of serious insubordination. It was inflicted with the knowledge of the superintendent, but was entirely discontinued in March, 1895.

Tenth. By chapter 262 of the Laws of 1893, the sum of \$14,000, "or so much thereof as may be necessary," was appropriated for the purpose of "furnishing individual locks for such cell doors in Sing Sing prison as are now furnished with night bars only, and night bars for such cell doors as are now furnished with individual locks only," to be expended under the direction of the superintendent. The evidence shows that a contract for the purpose mentioned in the statute was let by the superintendent for \$13,600, and it seems that the total expense incurred by the contractor in the fulfillment of his contract was \$8,941.42, leaving a net profit of nearly \$5,000.

There were three bids for the contract, differing slightly in amount, namely: \$13,600, \$13,850 and \$13,840, and they bear date respectively January 13, 1893, April 7th and April 15th, 1893. The act was passed April 3rd. The bids however differ quite materially in detail and in the character of the improvements covered by them. There was no advertisement for bids, but they seem to have been received as the result of correspondence or information of the proposed improvements conveyed in other ways; and there is no evidence that there was

any effort to reconcile the bids by requiring them all to be made for the same number and kind of locks and the same character of work. Improvements at Sing Sing prison involving locks upon a large number of cells had been the subject of consideration some time before the matter was actually taken up. By direction of the superintendent an estimate was procured of the probable expense, and this estimate was nearly \$14,000. At his suggestion a bill was drawn and introduced making the appropriation above stated, and a clerk from his office appeared before the proper committees of the Legislature with a statement showing the necessity for the improvement and the probable expense. It is not claimed that the superintendent did not act in good faith, but it is urged that he did not act prudently in failing to reconcile the bids by requiring them to be made for the same number and character of locks and the same kind of work, or in failing to make a more careful inquiry to determine the reason for the apparent difference in the details of the bids. Possibly the result would have been different if the superintendent had advertised for bids, stating in detail the kind of lock to be furnished and the character of the work to be done, but I think the evidence clearly warrants the inference that he acted in good faith and supposed he was making the best contract possible for the State.

Eleventh. This count relates to discipline in the

Clinton prison at Dannemora, and considerable evidence is given tending to show that during the three years preceding March, 1893, the warden at this prison allowed the convicts unusual liberties, such as going around the streets at Dannemora not attended by officers; playing ball on the prison grounds outside the inclosed walls of the prison; rendering personal services for prison officers at their houses outside of the prison; going into the woods to pick berries; going on hunting and fishing expeditions with the warden or his family or friends, sometimes being absent several days; and sleeping in the barns not attended by any officer. In some instances prisoners allowed these liberties were dressed in citizens' clothes. It also seems that on one occasion in the evening several prisoners went to a local entertainment given in the village of Dannemora in company with and in charge of the warden's private secretary; that on another occasion prisoners thus at liberty broke into a hotel a few miles from Dannemora and stole whiskey upon which one of them became intoxicated the next day and became disorderly and unruly, and it seems that upon a number of occasions the prisoners had sufficient liberty to enable them to hire boys to purchase whiskey for them and bring it to the barns for their use.

The evidence shows that the liberties of the character above detailed and others were granted to prisoners on many occasions, though the number of

prisoners allowed to take such liberties was not at any time very large, generally not more than three or four. It also seems that on one occasion two prisoners thus allowed to leave the prison went a long distance away but were afterwards brought back, and it was a disputed question whether they were lost or had escaped. A reward however was paid for their return, but the superintendent investigated the matter and determined that they had been lost in the woods. It is not urged that the liberties granted to these prisoners had the effect to materially impair the general discipline of the prison, and they are justified upon the ground that Clinton prison is in a remote part of the State, at a considerable distance from settled localities, and that more liberties to prisoners could be safely granted there than in a prison situated in a large town or city, or in a more populous district. These liberties have been usually granted to short-term men whom the warden thought could safely be trusted, and the practice has continued for many years. It was thought to be safe and proper, so far as the convicts were concerned, and also economical for the State, for the prisoners were able to perform considerable labor and render much valuable service for which the State would otherwise have been obliged to pay. It does not appear that the superintendent had actual knowledge of the incidents above outlined. He has not been accustomed to visit Clinton prison as fre-

quently as the others, principally on account of its remoteness; but his attention being called to these matters, either by the legislative investigation or otherwise, orders were issued by him for the purpose of checking, as far as practicable, the practice of allowing convicts to go outside the prison.

Inquiry was made before the commissioner into the facts connected with the death in April, 1894, of one Lillis, a convict in Clinton prison, and it was claimed that he came to his death in consequence of blows inflicted upon him by the principal keeper, McKenna. The object of the inquiry was apparently to show that McKenna was not a fit person to occupy the position of principal keeper. A coroner's jury exonerated McKenna, and an investigation made by the superintendent led him to believe that the officer was not in fault. McKenna is not now in the service of the State, and it is therefore perhaps unnecessary to give the subject any further attention.

Twelfth. Allen & Cunningham, of Dannemora, made a contract with Warden Thayer, in January, 1893, to manufacture chairs with convict labor at Clinton prison upon the piece-price plan. Mr. Allen, a member of this firm, testified that he had for about two years paid Albert Thayer, an officer in the prison and a brother of the warden, \$20 a month to look after the interests of the firm and see that their stock was taken care of and nothing wasted.

The acceptance by a prison officer of compensation for services rendered for a contractor, while at the same time receiving compensation from the State, is clearly improper. The warden denies any knowledge of this transaction, and there is no direct evidence that he knew of it, neither is it claimed that the superintendent knew that such an arrangement had been made or that Albert Thayer was being paid for this ostensible service, until he learned of it in this investigation. It appears that other contractors had put outside men in the prison to look after their interests, but Allen & Cunningham had no such outside man and paid Thayer for this service. It is urged on the part of the prosecution that this arrangement for Albert Thayer's oversight of the business of the firm and the receipt by him of the monthly payment could scarcely remain unknown to the warden for two years, and that the warden himself must have been not only cognizant of the arrangement but a party to it and a probable participant in the monthly payment. It is a matter which should be carefully investigated by the superintendent.

All of the charges have now been briefly reviewed. A large amount of testimony has been taken and witnesses have related many incidents bearing more or less directly upon the issues. The investigation has taken a wide range, covering transactions in all

three of the prisons, and reference has already been made to most of the principal items.

In further considering the charges, it may be profitable to take a brief survey of our prison system, and it will perhaps appear that many of the incidents in prison affairs which have been the subject of investigation are not altogether due to a failure of administrative oversight.

Our prison system is the result of a process of evolution beginning with the statute of 1796 providing for the erection of State prisons. This act authorized the construction of a State prison at New York and another at Albany. The Governor was authorized to appoint not exceeding seven inspectors, who, together with the justices of the Supreme Court, made rules for the government of convicts and the regulation of prison affairs. The Governor was also to appoint a keeper of each prison. Supplies for prisoners were to be purchased by the inspectors, or by agents appointed by them. The act of 1801 required the inspectors to account annually with the comptroller, and also provided for an agent to purchase supplies. In 1802 the duties of the agent were enlarged, and he was required to take care of the prisons and their inmates, purchase supplies, materials for manufacture, etc., and render an account weekly to the inspectors and annually to the comptroller. The inspectors were to examine all property purchased, *and with the affirmance of the*

agent, contract the price to be paid. By the act of 1805, all contracts and dealings of the State prison were required to be in the name of the agent and he was authorized to sue and be sued as such. The act of 1817 required supplies to be purchased by contract. The powers of the agent remained practically the same, and the inspectors still retained their power of supervision. By the revision of 1828, the powers of agents were continued without material change. The inspectors were given power to inquire into all matters connected with the government, discipline and police of the prisons, the punishment and employment of prisoners, the moneyed concerns and contracts for work, and the purchase and sale of articles; and they were required to examine into the improper conduct alleged to have been committed by the agents or subordinate officers. In 1835 each prison was placed under the direction of a board of five inspectors. They were authorized to issue general and special orders and make rules to be in force until the next meeting of the board of inspectors. By the act of 1840, the agent was required to attend to the fiscal and business concerns of the prison; to make all contracts for the employment of convicts; to furnish the necessary supplies for their support; superintend the mechanical and manufacturing business carried on within the prisons; receive the articles to be manufactured, and sell and dispose of the same for the benefit of the State. By

the act of 1844, establishing the Clinton prison, the agent was to be appointed by the Governor, with powers similar to those of other prison agents, and the Governor, Attorney-General and Comptroller were to perform the duties of inspection charged upon the inspectors of other prisons. The Constitution of 1846 provided for the election of three inspectors of State prisons, who were to "have the charge and superintendence of the State prisons, and appoint all the officers therein." The prison laws were revised in 1847, and the powers of inspectors were enlarged. Each inspector was to take special charge of a prison for a period of four months, rotating at the end of each period. They were required to spend considerable time at the prisons, and to have the general direction of their affairs. They were required to appoint the agents, wardens, keepers and other officers. The functions of agent were separated from those of the warden, and two distinct offices were created, and the agent's duties were confined exclusively to the financial concerns of the prison, and he was to have the exclusive disposal of the services and designate the employment of all convicts. He also had general supervision of the subordinate officers of the prison. Contracts were to be made under the direction of the inspectors. The agent was also required to render a monthly account to the Comptroller. All fiscal transactions and dealings were to be made in the name of the agent,

who had control over all matters of finance, subject to the direction and supervision of the board of inspectors, and he might bring actions relating to the affairs of the prison. The duties of the warden were exclusively confined to the government, discipline and police regulations of the prison.

By a constitutional amendment adopted in 1876, the scheme of prison supervision was again changed. The office of inspector was abolished and provision was made for the appointment by the Governor of a superintendent who "shall have the superintendence, management and control of State prisons, subject to such laws as now exist or may hereafter be enacted," and he was authorized to appoint agents, wardens, physicians and chaplains of the prisons. The clerk was to be appointed by the Comptroller and the other officers by the agent and warden, "subject to the approval of the same by the superintendent." The prison law was revised in 1889, but the general features of the former statutes were retained. The offices of agent and warden were combined and for several years have been held by one person at each prison. It was made the duty of the agent and warden to "exercise a general supervision over the government, discipline and police of the prison, and attend to its fiscal and business concerns and conform to and enforce the rules and regulations of the superintendent." He was also required to give the necessary directions to the subordinate officers and

employees of the prison, and examine whether they have been careful and diligent in the discharge of their several duties. "He may also make such general orders or rules for the government of subordinate officers and employees not in conflict with the statutes of the State, nor the rules and regulations of the superintendent of State prisons, as he may deem proper." He is also required to render various reports to the Comptroller and to the superintendent. All the fiscal transactions are to be in his name, and he has control over all matters of finance relating to the prison, subject to the direction and supervision of the superintendent. The agent and warden may be removed from office by the superintendent "whenever in his judgment the public interests shall so require," and he is also "liable to indictment and punishment for any wilful neglect of duty, or for any malpractice in the discharge of the duties of his office."

No further reference to the statutes is necessary to show that from a very early period in our history the details of the management and control of the prisons had been under the direct charge of agents, and there has been a constant effort, somewhat fluctuating, to provide a satisfactory scheme of supervision. There were at first seven inspectors, afterwards five for each prison, then the whole number was reduced to three, and afterwards, following the development of our plan of government

by departments, one officer, called a superintendent, was provided, and he was vested with general supervision over the affairs of the prisons. His actual control is somewhat circumscribed, because he only has the appointment of the agent and warden, the physician and the chaplain. He cannot appoint the other subordinate officers, but may veto appointments by the agent and warden. The agent and warden is still vested with a large measure of actual control, and while this control is in terms subject to the supervision of the superintendent, such supervision must necessarily be in many cases merely nominal. It was doubtless the design of the framers of the constitutional provision and of the later statutes to provide adequate supervision, with a proper system of checks and balances by reports and estimates to the Comptroller and to the superintendent, at the same time giving large discretion to the agent and warden.

The evidence in this proceeding shows that the statutes defining the duties of agent have been liberally construed in favor of that officer, and he has come to exercise, if not to possess, the general management and control of the prison, and has not always been subject to the close and particular watchfulness in matters of detail that was perhaps expected of the officers charged with the supervision of prison affairs.

The prison system of the State has assumed pro-

portions which make it one of the most important departments of our government. Many millions of dollars have been invested in the erection and equipment of prisons and in the maintenance of their inmates, and these institutions annually involve the expenditure of about half a million dollars. The superintendent has constantly under his general supervision more than 4,000 prisoners, and the management of the system requires the services of nearly 450 officers and employees. Many matters of detail must necessarily be committed to subordinates, and the utmost vigilance would perhaps not enable the superintendent to keep himself informed concerning all the daily transactions in all the prisons. It is not surprising therefore that irregularities are occasionally discovered, or that customs should be established and practices adopted that are not conducive of the best results in prison management.

Nearly all the transactions set forth in the petition as grounds for the removal of Mr. Lathrop, with the exception of the lock contract at Sing Sing, occurred at the different prisons in the ordinary course of administration, and the irregularities if any were committed by the agents and wardens or by their subordinates; and it is not claimed that the superintendent was personally concerned in them or that he knew directly what was being done, but it is urged that he might and should have known whether his instructions

were being obeyed, whether the requirements of law were being observed and whether the agents and wardens were properly conducting the affairs under their immediate charge. The complaint against the superintendent is mostly of a negative character — not that he had any positive knowledge of any supposed irregular transactions by prison officers, or was directly a party to them — but that he relied too implicitly upon the proper performance of duty by his appointees and did not sufficiently acquaint himself with the details of the ordinary affairs of the prisons; and assuming that the irregularities are sufficiently grave to warrant the official attention of the superintendent, it is now urged that his failure to remove all the officers who have been proven guilty of misconduct is evidence of his own unfitness for a position demanding careful, prompt and intelligent scrutiny and supervision of the affairs of a great department. The Constitution and the statutes have vested the superintendent with complete power of supervision of all prison affairs, and in devising the present scheme of supervision it was probably expected that he could and would keep himself acquainted with the routine of business in the different prisons and with the condition and results of prison management.

The Governor has not been vested with any authority to remove any subordinate officers or employees in the State prisons. The superintendent

is charged with the duty of appointing certain officers, including the warden, and may remove them "whenever in his judgment the public interests shall so require." Specific charges do not seem to be necessary, but the whole subject is left to his discretion, to be fairly exercised in a proper case for the efficiency of the public service. The harmony of the system is further preserved by giving the superintendent power to fix the number of subordinate employees, and vesting the power of their appointment in the agent and warden, subject to the approval of the superintendent; and the statute further confers upon the agent and warden the "power to remove such officers and employees so appointed by him." The warden is vested with a most important trust, and the efficiency of prison management depends very largely upon his judgment in the selection and retention of competent and faithful officers. Charges against the subordinates may be made to the agent and warden, and his neglect to give the charges proper attention, and if they are established to remove the delinquent officer, would constitute proper grounds for charges against himself to the superintendent, who, under the general power and duty of superintendence, management and control vested in him by the Constitution and by statute, is bound to see that the agent and warden properly performs his duty, not only with regard to the functions specifically devolved upon him in the routine of prison adminis-

tration, but also that only proper officers are appointed or retained in the prison services. For the same reason it is considered a proper ground of complaint against the superintendent that he retains in the service an agent and warden who is either negligent directly in his own administration, or indirectly in the administration of his subordinates; so that the results of negligent administration even in a remote subordinate may reach back through the system to the superintendent himself, who is the responsible head of the prison department. The Governor therefore may inquire into the conduct of subordinates, not for the purpose of removing them, for he has not that power, but because he is charged with the duty of determining the propriety of continuing in office the superintendent who has power over these subordinates, and because the Constitution makes it his duty to "take care that the laws are faithfully executed."

The Governor is not the tribunal charged with the duty of determining in the first instance whether any officer in the prison service below the superintendent ought to be removed, but upon a complaint against the superintendent for negligence in supervision by which subordinates have been enabled to commit irregularities in administration, the conduct of those subordinates becomes a proper and even necessary subject of inquiry, and also the superintendent's relation to such conduct, for the purpose of

determining whether he has been guilty of any negligence, and if so, its character and extent. While a direct executive recommendation of the removal of a particular subordinate may not be deemed advisable, it is proper to call attention to facts, if they exist, which affect the efficiency of prison administration, and advise the prompt removal of all who have shown themselves unfaithful in the performance of duty, or unworthy of further confidence.

There seems to be no claim now, at least I am not aware of any adequate proof, that the management of Sing Sing prison is subject to serious criticism. The only transactions occurring there which have received much attention, aside from the lock contract, relate to the administration of the principal keeper, Mr. Connaughton, and as already suggested these incidents are not serious and cannot have the effect to materially impair the good reputation of this officer, acquired through more than twenty years of faithful service.

The transactions connected with Clinton prison relate principally to the alleged laxity of discipline consequent upon the unusual liberties sometimes granted to convicts, and while this feature of prison administration should not be encouraged and the practice of taking prisoners outside should be carefully guarded and restricted as much as practicable, the subject is not one which calls for serious censure at this time; but the long continuance of the prac-

tice — almost from the establishment of the prison — does not alone, as some persons seem to think, justify it, and it is I think proper to suggest that it should receive the careful attention of the superintendent.

Most of the transactions which are the subject of complaint in this proceeding occurred at Auburn prison, and enough has been shown I think to justify me in expressing the opinion that the affairs of that prison have not always been conducted with a view to the best interests of the State, and I earnestly urge upon the superintendent the importance of a rigid investigation of its management, and if it be found that any officer is recreant to his trust, negligent in the performance of his duty, or unfaithful in any respect, he should be promptly removed. The State is entitled to the best service of the best men, and no one should be retained in office who shows by his conduct, his character or his habits that he is not worthy of the trust vested in him as a part of the prison system of the State.

The Constitution confers upon the Governor the power to remove the superintendent of State prisons. This power is not to be exercised at the mere pleasure of the Executive, but must be for "cause" and after the superintendent has had an opportunity to be heard. The rule seems to be well established that the "cause" is to be personal to himself, and involve some dereliction or general neglect of duty, or incapacity to perform the duties, or some delin-

quency affecting his general character and his fitness for the office.

I understand that substantially the only ground upon which the removal of the superintendent is urged in this proceeding is his own failure to remove certain subordinate officers who it is claimed are shown to have been guilty of various irregularities. He is directly charged with the responsibility of the appointment and removal of the warden, and it is his duty either to know from day to day what is going on in the prison, or to investigate any supposed irregular transactions to which his attention is called, and if he knows or has good reason to believe or if his investigation shows that his subordinates are guilty of improper conduct, it is his duty to remove them. If he does not do so, his failure to cause their removal is a proper ground of complaint to the executive. It is urged here that the superintendent had notice by the legislative investigation that certain subordinates were violating the law and were unfaithful to the interests of the State and ought to have been removed by him. He testifies that after the legislative investigation he inquired into the facts referred to in the report of the committee, and became convinced that the committee was mistaken and that the wardens were right. He did however undertake to provide better administration by issuing certain orders relating to prison management. It is clear I think that he should have an opportunity to

attempt to reform any abuses which may be discovered in the prison department ; and it is conceded that upon his attention being called to the irregularities and infractions of law set forth in the petition, he caused them to be discontinued and that they have not been the subject of complaint since the spring of 1895. It seems quite evident that since that time there has been a more careful administration of prison affairs. Upon many of the principal issues the evidence is conflicting, and opinions may fairly differ as to its sufficiency and effect. But upon the whole case, I am not willing at this time to overrule the judgment of the superintendent and remove him because he does not take the same view of the conduct of the warden which is entertained by some other persons. Something must still be left to his discretion, and there should be no executive interference with it unless it clearly appears that he is trying to shield official misconduct, or manifests a lack of comprehension of the responsibilities of supervision with which he is charged.

Mr. Lathrop has had charge of the prisons more than nine years. During that time many millions of dollars have been expended under his supervision, and questions relating to prison management and the labor of convicts have received serious and extended legislative and other public attention, resulting in numerous important statutory changes, and also an amendment to the Constitution abolishing

the contract system of labor in prisons. During his incumbency the prisons have been the subject of frequent legislative and other official scrutiny and examination, and except the charges set forth in the petition in this proceeding I am not aware of any complaint against his administration. While this circumstance alone could not be deemed sufficient to exculpate an officer who is actually guilty of an offence, nevertheless a long and satisfactory service at the head of a great department should have some weight in determining the question of his removal, especially where the complaint only involves the omission of sufficient supervision of details rather than any direct malfeasance of the officer himself. Whatever delinquencies may have occurred at either of the prisons, it is not claimed that the superintendent derived any personal profit or benefit from any of them, or that he was concerned in or had knowledge of any irregularities. I cannot commend all of the transactions which have been the subject of investigation in this proceeding, nor on the other hand do I feel called upon to declare affirmatively that any subordinate officer should be removed, but I think enough has been shown to warrant the people of the State in expecting the most thorough watchfulness hereafter in the administration of prison affairs.

In my opinion the facts disclosed in this proceeding are not sufficient to warrant the finding that the

superintendent has been guilty of negligence or misconduct which would justify his removal, and the charges are therefore dismissed.

LEVI P. MORTON

APPOINTMENT OF AN EXTRAORDINARY
TERM OF THE APPELLATE DIVISION
FOR THE THIRD DEPARTMENT

STATE OF NEW YORK

Executive Chamber

IT APPEARING to my satisfaction that the public interest requires it,

Therefore In accordance with the statute in such case made and provided I do hereby appoint an Extraordinary Term of the Appellate Division of the Supreme Court of and for the Third Judicial Department to be held at the court-house in the city of Albany on Thursday, the twenty-ninth day of October, 1896, at ten o'clock in the forenoon of that day; and I do further direct that notice of this appointment of said court be given by publication of this order in the *Albany Morning Express* newspaper.

Given under my hand and the Privy Seal of
the State at the Capitol in the city of
[L s] Albany this twenty-first day of October

in the year of our Lord one thousand
eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

FIREARMS COMMISSION REPORT — AD-
VERSE DECISION OF THE GOVERNOR

STATE OF NEW YORK

Executive Chamber

Albany, October 22, 1896

*In the matter of the selection of improved firearms for
the use of the National Guard—Decision.*

By chapter 600 of the Laws of 1895, it was made the duty of the Governor to appoint three citizens of the State as a board of examiners to “test, examine and recommend such arms of modern pattern, consisting of magazine breech-loading rifles and other implements necessary to supply the National Guard of the State, securing the utmost efficiency by the adoption of such arms as are adapted to the requirements of the new tactical manœuvres contemplate.” The tests were to be made under provisions and regulations to be prescribed by the Adjutant-General; and the act further provided that “all tests shall be confined to arms of American invention and

manufacture." The act required the examiners to "submit to the Governor the result of such test, their findings and recommendations, and upon the approval of such report by the Governor, the duties of such board of examiners shall cease and determine, and the particular weapon recommended by said board shall be adopted for the military and the naval forces of the State;" and thereupon the Adjutant-General was authorized to contract for not exceeding 15,000 rifles as recommended, at not more than \$20 each.

Albert D. Shaw of Watertown, Eliphalet W. Bliss of Brooklyn, and Robert H. Thurston of Ithaca, were appointed examiners for the purposes of the statute. They filed a report July 10, 1896, unanimously recommending the Savage military magazine rifle for the use of the National Guard. The minutes of the proceedings of the board were also filed. Several inventors, manufacturers and representatives of other guns filed objections, and a hearing was requested before final action by the Governor upon the report. Such hearing was appointed for October seventh, and on that day the whole subject was discussed at considerable length. It appears that the Adjutant-General furnished for the board regulations for the tests to be made in the selection of a gun, and the board issued and distributed a circular containing those regulations and other rules formulated by them. The minutes of the board

show that they held twenty-eight meetings and made numerous tests for the purpose of determining the proper selection of a gun, and apparently gave the whole subject very careful attention.

It is intimated that the examiners were predisposed in favor of the Savage gun and gave its representatives unusual and unfair opportunities to successfully compete with other guns really possessing superior merit; but the evidence submitted to me does not I think warrant the suggestion. So far as appears, the examiners undertook to afford the representatives of all guns submitted to the test an opportunity to show the merits, value and capacities of the weapons, and did not unfairly discriminate against any of them. Twelve guns in all were formally entered and offered for examination; four were withdrawn as incomplete or not entitled to admission to the test or for other reasons. The examiners state that the date for entering guns was extended four times in order that all newly invented American magazine rifles might be presented, and that the final date of closing all entries covered the extreme limit asked for by any of the intending exhibitors. Eight of the guns were tested and the examiners report that six of them passed through the severe trials required with marked success.

The approval of the report is also opposed upon the ground that the examiners had no jurisdiction to admit the Savage gun to the test, for the reason that

the statute under which the test was made excluded all guns which were not of "American invention and manufacture." In an affidavit filed by Arthur W. Savage, the inventor of this gun, he says that he was born in the city of Kingston, Jamaica, West Indies; that he came to the United States in 1886, and has resided here continuously in the State of New York since that time. In his application for a patent upon the gun, filed April 10, 1889, he described himself as "a subject of the Queen of Great Britain, residing in Bay Ridge, in the county of Kings, in the State of New York." It also appears that he became a citizen about the time of the passage of this act. It seems that before that time he assigned his interest in the patent to J. Morris Childs, Richard S. Reynolds and Edwin H. Risley of Utica, and that the patent was issued to them July 25, 1893. The right of the Savage gun to be admitted to the test was questioned before the board, and they requested the opinion of the Attorney-General upon the meaning of the term "American invention," and he replied that in his judgment the term had reference in this statute to firearms invented and manufactured within the United States. Acting upon this authority the examiners treated the Savage gun as an American invention within the meaning of the law, and thought it could legally be selected and recommended by them. This objection was raised again on the hearing before me, and it becomes necessary to dispose of it because it

involves the jurisdiction of the examiners to recommend this particular gun.

It is claimed that the phrase "American invention" means something invented by an American, and that the word "American" in this statute must be limited to a citizen of the United States. If the word is to be given this narrow meaning, the Savage gun may not have been entitled to compete for the designation, for it is conceded that the inventor was not a citizen when he applied for the patent nor when it was issued. The term "American" is used quite frequently in the statutes of the United States and of the different States, as well as in other writings and in common speech, and it has a quite varied meaning. Sometimes it refers to citizens, sometimes to inhabitants, and sometimes to the institutions, prosperity, products, manufactures, literature or art of the United States.

The Supreme Court of Connecticut recently had occasion to consider the meaning of the word in construing the provisions of a will for certain "American widows and orphans." The Court says that the term "American," in the general mind, "now describes the descendants of Europeans born in America, but is applied especially to the inhabitants of the United States." This does not limit the term to citizenship. Several dictionaries give substantially the same definition, although the word is sometimes limited to natives of the United States.

I think the term should be given its ordinary meaning. The Savage gun was invented by an actual inhabitant of the United States, who has since become a citizen. It was manufactured here wholly of American material, and I think it is a gun of "American invention and manufacture" within the fair meaning of the statute.

The relative merits of the Savage gun and other guns were discussed at considerable length on the hearing before me, representatives of each gun claiming for it superior excellence upon the several grounds which the military authorities deemed essential in determining the selection of a proper gun. Under the circumstances, and in view of the action which I have decided to take upon this matter, it is unnecessary to enter into an examination of the merits of the controversy between the Savage and any other gun, or to determine the correctness of the conclusion reached by the examiners. A tabulated analysis of the results of the several tests, made under my direction from the minutes of the board on file, shows that several of the guns were quite close rivals. The decision was properly submitted by the Legislature to the examiners, and upon this review it is not practicable to pass in detail on the various incidents, comparisons and reasons which are set forth in the minutes and report as the foundation of the conclusion reached by the board.

For several years the Adjutant-General has

urged the importance of arming the State troops with the same small arms prescribed for the United States army; and in his report transmitted to the Legislature of 1895, he says that the infantry is still using the old Remington rifle, "a now obsolete weapon," and he recommends that the Legislature "take such steps as may be deemed advisable to impress on Congress the necessity and propriety, in fact the duty, of providing State troops with the new army rifle at the cost of the United States." The Adjutant-General's department seems to be committed to the policy of arming the State militia with the gun used by the regular army, but I am informed that opinions among military men differ as to the wisdom and advantage of such a change at present of arms for our National Guard. At the same session of the Legislature to which the above report was transmitted, the law was passed providing for the selection of a gun by the examiners whose report is now under consideration. In my annual message to the Legislature of 1895, I called attention to the subject of the inferiority of the arms in use by the State troops and suggested that it would soon be necessary to give "serious and business-like attention to the matter of supplying the Guard with arms of modern pattern, adapted to the requirements of the plan of warfare which their new tactical manœuvres contemplate and were devised to meet." The act providing for the investigation of

this subject limited the selection of a gun to an American invention, thus excluding the foreign gun which had recently been adopted for use in the regular army. That gun could not be admitted to the test and could not therefore be selected and recommended by the examiners; but although not formally tested, it received the attention of the examiners, and they state that they gave it very careful inspection and study.

When this bill was under consideration I felt some doubt whether it was such a compliance with my suggestion and with the recommendation of the Adjutant-General as should receive approval, and also whether the time was opportune for the expenditure by the State of the large sum involved in a contract which was possible under its provisions; but on account of the agitation of the subject which had been going on some time in military circles, and for the further and very important reason that the action of the examiners could not become effective without the approval of the Governor, I gave the proposed legislation my sanction, reserving however the right vested in me by the law to review the whole subject upon the coming in of the report of the examiners.

The statute presents a harmonious scheme of examination and review. The Adjutant-General was properly charged with the duty of prescribing regulations upon which the tests should be made, with a view to the selection of the best gun, and after such

examination, the report of the board was to be submitted for approval to the Governor, who is the constitutional head of the military and naval forces of the State, and as commander-in-chief may be permitted to exercise some general power of supervision over military affairs in addition to the powers specifically conferred upon him by statute. Executive consideration of this report is not I think limited to the mere question of the proper selection of the best gun, but may take broader ground and embrace the whole subject contemplated by the statute. The test of various guns was desirable and is a necessary step in the development of the problem of re-arming the militia, and the value of the test will not be lost even if the result does not become immediately available to the State. The whole subject of proper arms for infantry, not only in this country but among other nations, seems to be at present in a quite unsettled condition, and I am informed that military authorities are engaged in continued and extended discussion and experiment for the purpose of selecting a satisfactory gun.

During the interval since the passage of this law, I have given the subject attention and have been favored with the opinions of many persons of high authority in military affairs; and I am advised that even the Remington rifle, now in use by our National Guard, and particularly the Springfield rifle, in use by the National Guard of other States, is

much better for the use of the Guard when called into active service in the State in maintaining peace or suppressing disorders than a magazine gun such as is perhaps contemplated by the statute and the report of the examiners. It is further suggested that a high grade magazine gun is not desirable for the National Guard in time of peace, and that if the militia were called into service by the National Government, new arms would probably be at once supplied, and that only a week or two of exercise with them would be necessary to properly train the troops and enable them to use the new arms with entire satisfaction. The suggestion is also made that even if a magazine arm should be placed in the hands of the militia, they should still retain the arms they now have for use when called out in support of the civil authorities.

I am also advised that the United States Government has on hand about 240,000 Springfield rifles; that they are available for use by the militia, and that a movement has been initiated to furnish them to the several States as desired. In December last a bill was introduced in the Senate authorizing the Secretary of War to issue Springfield rifles to the National Guard of the different States in exchange for other rifles now in use. This bill passed the Senate on the 18th of March last, apparently without opposition, and on the 20th was referred to the committee on militia in the House of Representatives.

The bill is now pending in that body and will probably receive early consideration at the next session. The bill was prepared and recommended by the Ordnance Department of the United States for the purpose of securing uniformity in the arms used by the National Guard. If this action by Congress had been taken before the passage of our law, the Legislature would no doubt have deferred consideration of the subject until it became known whether our militia would be supplied with rifles by the National Government without cost to the State. I do not think that the bill now pending in Congress can properly be ignored in the consideration of this report. In view of the probability of the distribution of arms by the National Government, and especially at a time of great business depression and a continued unsettled condition of financial affairs, it would be unwise I think to approve a report which would require a contract for the purchase of arms at a possible expense to the State of \$300,000.

For these reasons I have decided not to approve the report.

LEVI P. MORTON

THANKSGIVING PROCLAMATION

STATE OF NEW YORK

Executive Chamber

As the end of the year approaches, the people of our State should yield grateful acknowledgment to the Giver of All Good for His mercy in preserving them from war and pestilence and from all forms of public calamity, for His loving kindness in directing their hearts and minds in behalf of the public welfare, for the preservation of social order, for the abundant crops yielded by the earth, for the enjoyment of life under conditions which insure the advantages of free and enlightened government, for educational progress and protection in all lawful and proper endeavors to achieve for themselves, individually and as a people, intelligent advancement and material prosperity.

In accordance therefore with established usage and by virtue of authority vested in me by the law of this State, I, LEVI P. MORTON, Governor, do hereby designate Thursday the twenty-sixth day of November next to be observed as a day of special thanksgiving and prayer among the people. And I further recommend that they refrain on that day, so far as may be done, from their usual vocations and assemble in their places of worship for religious observance and the public expression of devout thanks.

And while thus manifesting their happiness and giving recognition of their grateful feelings, let them not be unmindful of those who have been less blessed with abundance—the needy and the distressed—whose lot can be made happier by such benevolent ministrations as may be freely contributed from the ampler stores of their more fortunate fellow-beings.

Done at the Capitol in the city of Albany
this eleventh day of November in the
[L S] year of our Lord eighteen hundred and
ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

THE CIVIL SERVICE—REVISED RULES
REGULATING

STATE OF NEW YORK

Executive Chamber

In the exercise of the authority conferred upon the Governor by chapter 354 Laws of 1883 and acts amendatory thereof and in accordance with the provisions of the ninth section of the fifth article of the Constitution, I, Levi P. Morton, Governor of the State of New York, do hereby promulgate the following rules for the regulation of the civil service of said State and do revoke all other rules to that end.

Done at the Capitol in the city of Albany this ninth day of December in the year of our Lord one thousand eight hundred and ninety-six.

LEVI P. MORTON

RULES FOR THE CIVIL SERVICE OF THE
STATE OF NEW YORKRULE I. DEFINITION OF THE CIVIL SERVICE, AND ITS
DIVISIONS

1. The civil service of the State of New York shall be construed as including all offices and positions of trust or employment in the service of the State, the incumbents of which receive compensation for services or expenses from the treasury of the State or any civil division thereof or by the receipt

of official fees, except such military or naval offices and positions as are or may be created under the provisions of article XI of the Constitution relative to the militia.

2. The civil service of the State shall be divided into the unclassified service and the classified service.

3. The unclassified service shall comprise all elective positions, all positions filled by election or appointment by the Legislature on joint ballot, or by the Senate or Assembly, or by legislative committees, all persons employed temporarily as attendants upon either house during its session, all persons appointed by name in a statute, and all positions filled by appointment by the Governor either upon or without confirmation by the Senate, except officers and employees in his own office.

4. The classified service shall comprise all positions not included in the unclassified service.

RULE II. DEFINITION OF TERMS

The several terms hereinafter mentioned whenever used in these rules or any regulations thereunder shall be construed as follows :

1. The term "Commission" indicates the Civil Service Commission of the State of New York.

2. The term "Class" refers to the divisions of the civil service based upon the distinctive methods of appointments to the positions comprehended therein.

3. The term "Group" refers to the divisions in a

class based upon the character of the duties of the positions without regard to the salaries received.

4. The term "Subdivision" refers to the divisions of positions in a group more specially arranged according to details for the purpose of examinations, identical in whole or in part.

5. The term "Grade" refers to the division of any group or subdivision upon the basis of salary or compensation received.

6. The term "Office" shall be construed to apply comprehensively and restrictively to all such offices, courts, departments, commissions, boards and institutions, as have primary and sole responsibility and are not subordinate administrative divisions.

7. The word "Compensation" shall be construed as the annual salary of the position or its equivalent when stated by the day, week or month, and shall include proper commutation for lodgings and board, or either, when the same are furnished free as a part of such compensation, and such rate of commutation shall be fixed by regulation of the Commission.

8. The term "Veterans" refers to honorably discharged soldiers and sailors from the army and navy of the United States in the late civil war who are citizens and residents of this State.

9. The masculine pronoun "he" and its derivatives shall include the feminine pronoun "she" and its derivatives.

10. Whenever in these rules there is a direction that

the Commission shall report any matter to the Legislature it shall be construed as referring to the next ensuing annual report of the Commission to the Legislature as required by law.

RULE III. GENERAL PROVISIONS

1. The violation of any of the provisions of the civil service acts or of these rules by any person in the civil service of the State shall be considered a good cause for the dismissal of such person from the service.

2. No person in the civil service of the State shall use his official authority or influence to coerce the political action of any person or body; or shall dismiss or cause to be dismissed, or make any attempt to procure the dismissal of, or in any manner change the official rank or compensation of any person in such service because of his political or religious opinions or affiliations.

3. No question in any examination, or form of application or other proceeding by or under the Commission, or its examiners, shall be so framed as to elicit information concerning, nor any other attempt be made to ascertain, the political or religious opinions or affiliations of any applicant, competitor or eligible, and all disclosures thereof shall be discountenanced by the Commission and its examiners. And no discrimination shall be exercised, threatened or promised against or in favor of any applicant, competitor or

eligible because of his political or religious opinions or affiliations.

4. No recommendation of an applicant, competitor or eligible involving any disclosure of his political opinions or affiliations shall be received, filed or considered by the Commission, by an examining board or by any nominating or appointing officer.

5. No person in the civil service of the State shall be obliged to contribute to any political fund or to render any political service; nor shall any such person, directly or indirectly, use his authority or official influence to compel or induce any other person in such service to pay or promise to pay any political assessment.

6. In making removals or reductions or in imposing penalties for delinquency or misconduct, penalties like in character shall be imposed for like offenses and action thereon shall be taken irrespective of the political or religious opinions or affiliations of the offenders.

7. A person holding a position on the date said position is classified under the rules whose appointment was made in conformity with the law and who had been rendering the proper duties of such position, shall be entitled to all the rights and benefits possessed by persons of the same class appointed upon examination under the provisions of said rules.

8. The Commission shall have authority to prescribe such regulations in pursuance and for the exe-

cution of the provisions of these rules and of the civil service act, as may not be inconsistent therewith, and may prescribe blank forms for all applications, certificates, reports, records and returns required under these rules and the regulations made in pursuance thereof.

RULE IV. APPOINTMENTS TO AND EMPLOYMENT IN THE CLASSIFIED SERVICE

1. In pursuance of the provisions of Article V section 9 of the Constitution and of the civil service acts there shall be provided, to ascertain merit and fitness for admission to the classified service, examinations to be made under the general direction of the Commission.

2. No person shall be appointed to or employed in any position in the classified service until he shall have passed the examination as provide therefor or unless the position to which he is appointed is especially exempt from examination under the provisions of these rules.

3. The classified service shall be divided into four classes, and all positions and employments in said service shall be included in such classes, as hereinafter provided.

RULE V. DEFINITION OF CLASS I

Class I shall include (*a*) the deputies specially authorized by law to act for and in the place of the

head of an office ; (*b*) one principal cashier for each office, a part of the functions of which are the receipt or disbursement of money other than that applied to the payment of its own expenses, including salaries ; (*c*) the secretaries of State boards and commissions specifically named herein ; (*d*) such confidential clerks or other positions as shall be specifically named in this rule ; and such class shall comprise the following positions and such other positions as may hereafter be added under the four groups above defined :

POSITIONS IN CLASS I

In the office of the Governor :

- The private secretary
- The military secretary
- The appointment clerk
- The pardon and requisition clerk
- The executive stenographer
- Counsel

In the office of the Secretary of State :

- The deputy
- The confidential clerk
- The stenographer

In the office of the Comptroller :

- The deputies
- The confidential clerk
- The stenographer

In the office of the Treasurer :

The deputies

The cashier

The confidential clerk

The stenographer

In the office of the Attorney-General :

The deputies

The assistant in New York city

The confidential clerk

The stenographer

In the office of the State Engineer and Surveyor :

The deputy

The division engineers

The confidential clerk

The stenographer

In the Insurance Department :

The deputy superintendents

The private secretary

The chief actuary

Two confidential examiners

The stenographer

In the Banking Department :

The deputy superintendent

The private secretary

Two confidential examiners

The stenographer

In the Department of Public Instruction :

The deputy superintendents

The institute lecturer

The conductor of institutes

The confidential clerk

In the State Prisons :

The agents and wardens

The chaplains

In the Court of Appeals :

The clerk

The deputy clerk

The reporter

The law examiners

In the office of the Railroad Commission :

The secretary

The inspector

In the office of the New Capitol Commission :

The clerk

In the office of the Prison Commission :

The secretary

In the Department of Excise :

The deputy and special deputy commissioners

The secretary to the commissioner

The financial clerk

The cashier in the office of each special deputy
commissioner

Counsel

In the Department of Public Works :

- The deputy superintendent
- The assistant superintendents
- The superintendents of repairs
- The private secretary
- The financial clerk

In the office of the State Board of Charities :

- The secretary

In the office of the Regents of the University :

- The secretary
- The director of examinations
- The honorary university examiners
- The medical examiners

In the Department of Public Buildings :

- The superintendent
- The deputy superintendent
- The paymaster

In the office of the Commission in Lunacy :

- The secretary

In the State Hospitals and Asylums :

- The treasurers
- The chaplains

In the office of the Board of Claims :

- The clerk

In the office of the Board of Health :

- The secretary

- In the Bureau of Statistics of Labor :
The chief clerk
- In the office of the Fisheries, Game and Forest
Commission :
The assistant secretary
- In the office of the Commissioner of Agriculture :
One assistant commissioner
- In the office of the Board of Mediation and
Arbitration :
The secretary
- In the office of the Board of Tax Commissioners :
The secretary
- In the office of the Factory Inspector :
The secretary
- In the office of the Commissioners of the State
Reservation at Niagara
The secretary and treasurer
- In the Weather Bureau at Cornell University :
The meteorologist
The secretary and expert
- In the Agricultural Experiment Station at Geneva :
The director
The assistant director
- In the State Reformatory at Elmira :
The chaplain

In the Industrial School at Rochester :

The parole agent

The chaplains

In the Soldiers and Sailors' Home at Bath :

The superintendent

The adjutant

The quartermaster

The assistant quartermaster

The surgeon

The assistant surgeon

In the Onondaga Salt Springs at Syracuse :

The deputy superintendent

In the office of the Quarantine Commission :

The secretary

In the office of the Board of Port Wardens :

The secretary

The collector

In the office of the Health Officer of the Port of
New York :

The deputies

In the office of the Commissioners of Subways,
Brooklyn :

The secretary

In the Normal Schools :

The principals

The Superintendent of Weights and Measures.

In the courts :

- The chief clerk of each court
- The police clerk and interpreter of each magistrate's court, New York city
- The secretary of the Board of Police Magistrates, New York city
- The interpreter of the Court of Special Sessions, New York city
- The assistant clerk of each district court, New York city
- Special commissioners of jurors under chapter 378 of the Laws of 1896
- The assistant special jury commissioner in New York city
- One confidential clerk, stenographer, attendant, or other assistant to each judge of the Court of Appeals and of the Supreme Court

RULE VI. APPOINTMENTS IN CLASS I

Appointments may be made to positions in Class I without examination. Upon formal notice to the Commission of such appointments by the head of an office, certification of the same will be made to the Comptroller or other fiscal officer otherwise authorized to pay a salary to the incumbent of the position to which such appointment is made.

RULE VII. DEFINITION OF CLASS II

Class II shall include all positions now existing or hereafter created of whatever functions, designations or compensation in each and every branch of the classified service, except such positions as are specifically designated in Class I or Class III, or included in Class IV, arranged in the following groups and subdivision:

GROUPS BASED UPON THE CHARACTER OF THE SERVICE RENDERED

Group A. Clerks, which term shall include all positions the duties of which are of a clerical character and which are not otherwise specifically provided for herein.

- SUBDIVISION
1. Secretaries, chief clerks
 2. Clerks, recorders, registers, whose annual compensation is \$1,200 or more
 3. Clerks, recorders, registers, copyists, whose annual compensation is less than \$1,200
 4. Junior clerks
 5. Bookkeepers
 6. Stenographers and typewriters

Group B. Cashiers, which term shall include all positions, the duties of which are the actual receipt,

custody or disbursement of money or the enforcement of the accountability for the same.

- SUBDIVISION 1. Cashiers, tellers, paymasters, disbursing agents or clerks, financial clerks
2. Auditors, controllers

Group C. Custodians and Messengers, which term shall include all positions, the duties of which are the charge of property or persons, or as attendants.

- SUBDIVISION 1. Stewards who are not disbursing agents, superintendents of buildings
2. Matrons, storekeepers
 3. Prison and reformatory keepers and guards
 4. Protectors of forests, fisheries and game
 5. Messengers, ushers, attendants, janitors, orderlies, marshals, criers, elevator-men, porters, watchmen

Group D. Engineers, which term shall include all positions where qualifications of an engineering or cognate character are required.

- SUBDIVISION 1. Civil engineers
2. Levelers, surveyors, rodmen
 3. Chainmen
 4. Architects
 5. Draftsmen
 6. Electrical engineers, dynamo tenders, whose annual compensation is \$850 or more
 7. Electrical engineers, dynamo tenders, whose annual compensation is less than \$850
 8. Steam and mechanical engineers, firemen, whose annual compensation is \$850 or more
 9. Steam and mechanical engineers, firemen, whose annual compensation is less than \$850

Group E. Inspectors, which term shall include all positions, the duties of which are the inspection of materials or workmanship or the supervision of laborers.

- SUBDIVISION 1. Superintendents of construction or repairs when not civil engineers or architects
2. Inspectors of masonry, ironwork and other materials and workmanship
 3. Electrical inspectors
 4. Overseers, foremen

Group F. Special Agents, which term shall include all positions requiring detective ability

- SUBDIVISION 1. Examiners for the Banking Department
2. Examiners for the Insurance Department
 3. Examiners for the Comptroller and other State officers
 4. Examiners for State Boards and commissions
 5. Deputy factory inspectors, special agents for State Boards and commissions
 6. Inspectors of milk, butter, cheese, vinegar, etc.

Group G. Law Positions, which term shall include all positions requiring some legal knowledge

- SUBDIVISION 1. Law clerks, brief clerks, statutory revision clerks, clerks of courts or in other offices, whose duties require some legal knowledge
2. Corporation examiners and clerks

Group H. Medical Positions, which term shall include all positions requiring medical or pharmaceutical knowledge

- SUBDIVISION 1. Superintendents of Asylums and Hospitals, who are necessarily physicians
2. Physicians, surgeons, medical examiners
 3. Medical internes
 4. Pathologists
 5. Health officers, sanitary experts and inspectors
 6. Pharmacists, apothecaries

Group I. Mathematicians, which term shall include all positions requiring special mathematical qualifications

- SUBDIVISION 1. Actuaries, statisticians, computers
2. Expert accountants

Group J. Scientists, which term shall include all positions requiring special scientific knowledge

- SUBDIVISION 1. Geologists, paleontologists, botanists, entomologists, bacteriologists, chemists
2. Assistants to the foregoing

Group K. Agriculturists, which term shall include all positions requiring agricultural or horticultural knowledge, including arboriculture and the breeding and care of domestic animals

- SUBDIVISION 1. Agriculturists, farmers
2. Horticulturists, gardeners, arboriculturists
3. Veterinarians

Group L. Instructors, which term shall include all positions the duties of which are scholastic instruction or to educate or test the ability to instruct

- SUBDIVISION 1. Principals of schools
2. Teachers in all branches, other than such as are otherwise specially provided for in this classification
3. Examiners of educational and scholastic qualifications

Group M. Mechanics and Craftsmen, which term shall include all positions requiring special mechanical skill or as tradesmen and not classed as laborers, and whose annual compensation is \$720 or more

- SUBDIVISION 1. Mechanics, craftsmen and tradesmen, whose duties shall be actual service as such
2. Instructors in any handicraft or mechanical or other trade

Group N. Miscellaneous Positions, which term shall include all positions requiring expert or other

qualifications, not embraced in Classes I or III, or in other groups in this class

- SUBDIVISION 1. Superintendents of institutions, who are not necessarily physicians or instructors
2. Chief and assistant librarians
 3. Interpreters, proof readers, superintendents of hatcheries, and other positions except those specifically named in this classification as in other groups or hereafter included in them.

The omission in the above classification of any official designation or appellation of a position in the service shall not exclude such position from the classification, as it will be comprised in the group and subdivision to which it belongs by the general definition and specifications of such group and subdivision.

2. The Commission may further subdivide for the purposes of examination the positions in any group or subdivision thereof, so as to test practically the special qualifications requisite for such positions.

3. The classification of all positions shall be governed solely by the respective duties and functions of such positions, and in requesting from the Commission the certifications from eligible lists for selection for appointment the heads of offices shall give in detail the duties attached to such positions and shall

name so near as may be the groups and subdivisions that comprise respectively such duties and functions.

4. For the purposes of orderly arrangement and of regulated promotion, the positions in each subdivision of each group shall be divided into grades based upon the rates of annual compensation, as follows :

Grade 1. All positions, the compensation of which is at the rate of less than \$600 per annum

Grade 2. All positions, the compensation of which is at the rate of \$600 or more, but less than \$900 per annum

Grade 3. All positions, the compensation of which is at the rate of \$900 or more, but less than \$1,200 per annum

Grade 4. All positions, the compensation of which is at the rate of \$1,200 or more, but less than \$1,400 per annum

Grade 5. All positions, the compensation of which is at the rate of \$1,400 or more, but less than \$1,600 per annum

Grade 6. All positions, the compensation of which is at the rate of \$1,600 or more, but less than \$1,800 per annum

Grade 7. All positions, the compensation of which is at the rate of \$1,800 or more, but less than \$2,100 per annum

Grade 8. All positions, the compensation of which is at the rate of \$2,100 or more, but less than \$2,500 per annum

Grade 9. All positions, the compensation of which is at the rate of \$2,500 or more, but less than \$3,000 per annum

Grade 10. All positions, the compensation of which is at the rate of \$3,000 per annum or over that amount

RULE VIII. APPOINTMENTS TO POSITIONS IN CLASS II

1. Appointments shall be made to or employment shall be given in all positions in Class II that are not filled by promotion, reinstatement, transfer or reduction under these rules, by selection from those graded highest, as the result of open competitive examinations, except as herein otherwise provided.

2. Whenever an officer having the power of appointment to or employment in any grade in Class II shall request a certification from which to make an appointment, the Commission shall certify to him as follows: (1) when the names of three or more veterans shall be on the eligible list, there shall be certified of such names standing highest on such list not more than two in excess of the number of places to be filled; (2) in all other cases, the Commission shall certify the names of the three eligible

persons standing highest on the proper register ; *provided*, that no person shall be certified more than three times to the same officer, except upon request of such officer, unless the person so certified is a veteran, in which case his name shall continue to be certified so long as it remains on the register under these rules ; *and provided further*, that whenever the sex of those whose names are to be certified is fixed by any law, rule or regulation, or is specified in the request for certification, the names of those of the sex so fixed or specified shall be certified, but in other cases certification shall be made without regard to sex.

3. From the persons whose names are so certified the officer shall make a selection to fill the vacancy, subject, however, to the provisions of the Constitution giving preference in appointment to veterans.

4. If the appointing officer shall object to an eligible named in the certificate, stating that, because of some physical defect, mental unsoundness, moral disqualification or other reason, particularly specified, said eligible would be incompetent or unfit for the performance of the duties of the vacant position, and if said officer shall sustain such objection, with evidence satisfactory to the Commission, the Commission may certify the eligible on the register whose name stands next below those already certified, in place of the one to whom objection is made and sustained.

5. In the selection, nomination, appointment or promotion of persons to fill positions in the classified service no regard shall be paid to the partisan political opinions, affiliations or action of any person so selected, nominated, appointed or promoted.

6. In the selection from the persons whose names are certified as above by the Commission, the appointing or promoting officer, upon his written requisition therefor, will be furnished with the application and examination papers of all the persons so certified, and in the exercise of his responsible power of selection he may summon personally before him the certified persons for such verbal inquiries as he may deem proper. All papers, furnished upon requisition as above, must be returned to the Commission with the notice of selection.

7. Whenever there are urgent reasons for filling any vacancy in any office by appointment under this rule and there are no eligible lists from which a selection may be made, or in case the persons whose names are on such lists shall decline the appointment, the head of the office may nominate a person to the Commission for non-competitive examination, and if such nominee shall be certified as qualified by the Commission he may be appointed temporarily to fill such vacancy until a selection and appointment can be made from the proper eligible lists; and if the head of the office upon the notification that such lists are on file shall omit within twenty days there-

after to make such selection or appointment, the position shall be considered vacant.

8. In case of vacancy in any position in Class II, where peculiar and exceptional qualifications of a scientific, professional or educational character are required, and upon satisfactory evidence that for specified reasons competition in such special case is impracticable and that the position can be best filled by the selection of some particular person of high and recognized attainment in such qualities the Commission may suspend the provisions of the rule requiring competition in such case, but no such suspension shall be general in its application to such place, and all such cases of suspension shall be reported to the Legislature with the reasons for the same.

9. The following mentioned positions or employees shall not be subject to examination under these rules :

(a) Any position filled by a person appointed because his residence is conveniently located for the performance of the duties of such position, *provided* that the performance of such duties does not occupy all the time of the occupant and that his compensation therefor shall not exceed in any one year the sum of three hundred dollars, and *further provided*, that local health officers filling such positions shall be practicing physicians of not less than five years reputable standing and whose nomination or

selection is approved by the State Board of Health and so certified to the Commission.

(b) Any military or naval officer of the United States duly detailed or assigned as a special instructor in any educational institution in this State or as instructor of any part of the military or naval forces of the State.

(c) Any person engaged in private business who shall render any professional, scientific, technical or other expert services of an occasional and exceptional character to any State officer and whose compensation in any one year shall not exceed three hundred dollars, *provided* that such limitation of compensation shall not apply to any such person employed by the Governor, Comptroller, Attorney-General or by the Senate or Assembly or any committee thereof, or by appointment by the courts.

10. If a person who is not entitled to certification is certified and appointed, his appointment shall be immediately revoked by the appointing officer upon notification by the Commission.

RULE IX. APPLICATIONS

1. No person shall be admitted to any examination for a position in Class II until he shall have filed an application under oath upon a form prescribed by the Commission and accompanied by such certificates as may be prescribed.

2. Every applicant for examination must be a citi-

zen of the United States and an actual resident of the State of New York at the time of his application, *provided*, that such requirements as to citizenship and residence may be specially suspended by the Commission as to any position requiring high professional, scientific or technical qualifications, or in cases where through low compensation for services such requirements are disadvantageous to the public interests, but all such cases, whether of individuals or groups, with the reasons therefor, shall be reported to the Legislature.

3. No application for examination shall be accepted unless the applicant is within the age limitations fixed by the Commission for entrance to the position to which he seeks to be appointed.

4. Whenever the application shows that the applicant is not within the prescribed limits of age or is otherwise not qualified under the rules and regulations, the application shall be rejected. The Commission may, in its discretion, refuse to examine an applicant, or to certify an eligible, who is physically so disabled as to be rendered unfit for his performance of the duties of the position to which he seeks appointment; or who is addicted to the habitual use of intoxicating beverages to excess; or who has been guilty of a crime or of infamous or notoriously disgraceful conduct; or who has been dismissed from the service for delinquency or misconduct within one year next preceding the date of his appli-

cation; or who has intentionally made a false statement in any material fact, or practiced, or attempted to practice, any deception or fraud in his examination or in securing his eligibility or appointment. Any of the foregoing disqualifications shall be good cause for the removal of an eligible from the service after his appointment.

5. In applications for examination for positions requiring scientific, professional or technical qualifications, the Commission may require evidences of special education for, or of practical experience for a satisfactory term in, such science, profession, art or trade; and shall require the production of such certificates of competency and licenses as are provided by the statutes of this State as necessary to enable the practice of any profession, art or trade.

6. Any application for a position in the civil service made in contravention of the provisions of the ninth and thirteenth sections of the civil service act will be rejected.

RULE X. EXAMINATIONS

1. All examinations shall be of a suitable and practical character, involving such subjects and tests as the Commission may direct, and may include oral examinations or special tests of fitness for any particular position requiring any scientific, professional or technical knowledge or manual skill.

2. Under the direction of the Commission the

chief examiner will prepare a list of subjects of examination for the several positions in Class II, upon which each applicant must be examined.

3. For the purpose of making examinations of applicants from time to time, as may be required, the Commission shall designate and select a suitable number of persons to be members of boards of examiners at such places as it deems necessary and shall duly commission such persons as examiners; and the Commission may at any time substitute any other person in place of any one so selected. When persons selected as examiners are in the official service of the State, the head of the office in which such persons serve shall be consulted; and in the discharge of their duties as examiners the persons so selected from the official service shall be responsible solely to the Commission, and shall act under its regulations and directions. The members of any board of examiners shall not all be adherents of one political party when other persons are available and competent to serve upon such board.

4. Examinations shall be held at such places and upon such dates as the Commission shall deem most advantageous to the service and convenient for applicants. Previous notice of examinations shall be mailed to all persons who have made application in due form, with copies of such general or special regulations as the Commission shall prescribe.

5. Whenever physical qualifications are of prime

importance in the proper discharge of duties in any position, applicants must pass a physical examination and be certified as qualified in such respect, either before admission to examination, or before record in the proper eligible list, or before certification for appointment, as the Commission may determine.

6. No person who has failed in any examination for a position in the classified service shall be admitted within one year from the date thereof to a new examination for the same position.

7. Examination papers shall be rated on a scale of 100, and the subjects therein shall be given such relative weights as the Commission may prescribe. After a competitor's papers have been rated he shall be duly notified of the results thereof.

RULE XI. ELIGIBLE LISTS

1. Every competitor who attains an average percentage of 70 or over on all the obligatory subjects in any examination, and whose standing on every such obligatory subject to which a weight of more than one is assigned in a scheme of marking is 50 or over, shall be eligible for appointment to the position for which he was examined; and the names of eligibles shall be entered, in the order of their average percentages, on the proper register of eligibles; *provided* that the names of competitors who have passed as above and whose claims for

preference under section 9 of Article V of the Constitution have been allowed by the Commission shall be placed in the order of their respective average percentages at the head of the proper register of eligibles.

2. When two or more eligibles on a register have the same average percentage, preference in certification shall be determined by the order in which their applications were filed, but neither priority in the date of application or of examination will give any other advantage in position on the registers of eligibles.

3. The Commission may include in one eligible list the names of persons examined for all the positions in any subdivision of a group, and may so arrange examinations for positions in a group as to combine them in regard to the main qualifications to be tested and with specific variations in other tests as to the distinct subdivisions of the group, so that as many eligible lists may be prepared from such examinations as the interests of the service demand. A transfer of names from one eligible list to another, prepared as above, may be made under the regulations of the Commission.

4. The term of eligibility shall be one year from the date on which the name of the eligible is entered upon the register; *provided* that the Commission may by its regulations extend the term of eligibility on any list for a period not exceeding one year for

reasons as follows: (*a*) whenever through unavoidable delay an examination to replenish such list has not been held; (*b*) or pending the ascertainment of the results of an examination to replenish or renew such list; (*c*) or whenever a sufficient number of eligibles has not been obtained as the result of such examination.

5. For State positions outside of Albany, the duties of which are confined to a district or locality or are of such a nature as to require intimate knowledge of the district or locality, or in cases where the temporary character or low compensation of the service renders it improbable, in the opinion of the Commission, that persons will be willing to come from a distance to accept such service, the Commission may by regulation provide for separate eligible lists for such districts or localities to be restricted to residents therein; but whenever such restriction is made on account of the temporary character or low compensation of the service, it shall be provided that applicants residing outside a district may upon special application be entered upon the list for that district. In all cases where practicable the districts herein provided for shall be so limited that every portion of the State shall be included.

RULE XII. TERM OF PROBATION

I. Every original appointment to or employment in any position in Class II shall be for a probationary

term of three months, and an appointing or nominating officer in notifying a person selected by him for appointment or employment shall specify the same as for a probationary term only ; and at the end of such term, if the conduct, capacity and fitness of the probationer are satisfactory to the appointing officer, his retention in the service shall be equivalent to his absolute appointment, but if his conduct, capacity or fitness be not satisfactory, he may be discharged at any time,

2. Every officer under whom any probationer shall serve during any part of his probation shall carefully observe the quality and value of the services rendered by such probationer and his conduct, and if so required shall report in writing to the proper appointing officer the facts observed by him, showing the character and qualifications of such probationer, and of the service rendered by him, and such reports shall be preserved on file.

RULE XIII. TEMPORARY APPOINTMENTS

1. No temporary appointment or employment in Class II shall be made or given, except under the provisions of the seventh section of Rule VIII or as hereinafter otherwise provided.

2. Every officer having the power of such employment, shall, previous to making the same, certify to the Commission that the services to be rendered are of a temporary character and shall give the

duration and character of the service to be rendered and the rate of compensation to be paid therefor. When such duration or term of service is certified to be for a longer period than one month, the Commission in its discretion shall certify to the appointing officer in accordance with Rule VIII, the names of three persons who, upon inquiry, are found willing to accept such temporary appointment, and from the three so certified a selection shall be made for the temporary service required. When the duration of service is certified not to exceed one month, and the need of such service to be immediate and urgent, the appointing officer may select for such temporary service any person on the proper register of those eligible for permanent appointment; subject however, to the provisions of law giving preference in appointment to certain persons; except that temporary appointments of officers may be made for not more than five days in any case to transfer prisoners from one prison to another, or as substitutes for regular officers who are necessarily absent, engaged in this duty. When the character of the temporary service is exceptional, and in the judgment of the Commission a competitive examination is not practicable, the application of this rule may be suspended, or modified in such manner as the Commission may deem proper.

3. No person appointed under this rule, except those appointed as herein provided for the transfer

of prisoners, shall be appointed temporarily a second time unless sixty days shall have elapsed since the termination of his previous term of temporary service, and every temporary appointment without examination must be reported to the Commission forthwith with the reason for the same.

4. The acceptance by an eligible of a temporary appointment shall not affect his standing on the register for a permanent employment nor shall the period of temporary service be counted as part of the probationary service in case of subsequent appointment to a permanent position.

RULE XIV. SHORT-TERM POSITIONS

1. All positions in Class II, where the nature of service is such that it is not continuous through the year, but recurs in each successive calendar year, shall be designated as short-term positions and shall be subject to the provisions of these rules applicable generally to positions in Class II, except as herein otherwise provided.

2. Any person originally appointed to or employed in a short-term position under the provisions of these rules and who has been temporarily separated from the service by the expiration thereof in any year shall be entitled to reappointment to or re-employment in the same position in the next ensuing year upon filing in the office of the Commission, in such form as it may prescribe, a request for such

reappointment or re-employment within six weeks previous to and at least thirty days before the date of resumption of such short-term service. The Commission shall certify to the proper appointing or employing officer the names and post-office addresses of the persons who have made such formal requests and they shall be reinstated in the positions vacated by them in the previous year in the order of the date of their original appointment or latest promotion in the several grades, *provided* that in the meantime they are not disqualified from any of the causes recited in the fourth section of Rule IX.

RULE XV. PROMOTIONS

1. No vacancy in any position in Class II above the lowest grade in any subdivision and group shall be filled by original appointment by certification from the registers of eligibles whenever there is in the office where the vacancy exists any person holding a position in a lower grade in the same subdivision or group who is fit, meritorious and willing to be promoted and so certified as hereinafter provided; *provided*, that for original entrance to the position proposed to be filled by promotion there is not required by these rules, in the opinion of the Commission, an examination involving essential tests or qualifications different from or higher than those involved in the examination for original entrance to the position held by the person proposed to be pro-

moted; but this restriction shall not apply in case the name of such person shall be upon the eligible list for such higher position.

2. Promotion shall in all cases be based upon the positive merits and fitness of the person promoted and upon his superior qualifications as shown by his previous service, due weight being given to seniority.

3. In order that such merit and fitness may be properly certified and such superior qualifications may be relatively estimated, there shall be kept in every office, continuous and comparative records of the efficiency, punctuality, attention and general good conduct of all persons employed therein, which records shall be the main factor in competition for promotion.

4. Whenever the head of an office shall deem a written competitive examination to be practicable as a factor in ascertaining the relative merits of those persons otherwise qualified for promotion to a vacancy in his office, the Commission on his formal application may hold such examination and certify the results to the head of the office for his information.

5. Promotions shall be made by regular and successive grades, but if there be none fit for promotion in the next inferior grade, the selection shall be made from the second inferior grade, and if none there be found fit, then from the third inferior grade, and so on until a suitable person has been found in such grade or grades, or if there be none found in such

inferior grades the vacancy shall be filled by appointment under these rules from the proper eligible list of those qualified for appointment to positions in the subdivision of the group wherein the position to be filled is classified.

6. No promotion can be made from a position in one class or group to a position in another class or group, unless the same be specially authorized by the Commission, but a person employed in any grade shall not because of such employment be barred from the open, competitive examination provided for original entrance to any other grade.

7. In case of any vacancy to be filled under this rule by promotion the head of the office, in his discretion and in accordance with the preceding clauses of this rule, shall make a promotion or appointment to fill such vacancy, and shall certify the same to the Commission in such form as it may prescribe, and shall give in such certificate the specific reasons for such promotion or appointment; or in case the head of the office shall determine that there is no person in his office entitled by merit and fitness and willing to be promoted to such vacancy he shall so certify to the Commission in such form as it may prescribe, and shall request a certification of eligibles for original appointment to such vacancy. A duplicate of any certificate to the Commission by the head of an office, as above provided, whether the vacant position be filled by promotion or original appointment,

with the reasons therefor, shall be filed in the office of the officer making it and shall be considered a public record, open to the scrutiny of any one concerned.

8. No recommendation of any person for promotion, whether verbal or written, shall be entertained or received unless made in the ordinary course of duty by his immediate official superiors, and the presentation of any recommendation other than that of such superior shall be considered an unwarrantable interference with the public service, and the person so recommended may be required to show, before being certified for promotion, that such recommendation was not made by his request or connivance.

RULE XVI. TRANSFERS

1. A person who has received an absolute appointment to any position in Class II may be transferred to a position in the same group, subdivision and grade in any other office, *provided*, that for original entrance to the position proposed to be filled by transfer there is not required by these rules, in the opinion of the Commission, an examination involving essential tests or qualifications different from or higher than those involved in the examination for original entrance to the position held by the person proposed to be transferred; but this restriction shall not apply in case the name of such person shall be

upon the eligible list for the position to which he is proposed to be transferred.

2. No transfer can be made from any position in the unclassified service to any position in the classified service, nor from any position in one class to any position in another class, nor from any position in any grade, subdivision or group in Class II to any different grade, subdivision or group in that class, unless the same shall be specially authorized by the Commission, and such authorization shall be reported with the reasons therefor, to the Legislature; *provided*, that a person who, by promotion or transfer from a position in the classified service, has entered a position, appointment to which is made by the Governor by and with the consent of the Senate, and has served continuously therein from the date of said promotion or transfer, may be retransferred from such unclassified position to the position from which he was so transferred, or to any position to which transfer could be made therefrom.

RULE XVII. REINSTATEMENT IN SERVICE

Any person who has held a position by appointment under the civil service rules, and who has been separated from the service through no delinquency or misconduct on his part, may be reinstated without re-examination in a vacant position in the same office and in the same group, subdivision and grade, within one year from the date of such separation,

provided that for original entrance to the position proposed to be filled by reinstatement there is not required by these rules, in the opinion of the Commission, an examination involving essential tests or qualifications different from or higher than those involved in the examination for original entrance to the position formerly held by the person proposed to be reinstated.

RULE XVIII. CERTIFICATES FOR PROMOTION, TRANSFER AND REINSTATEMENT

1. Upon the written request of an appointing officer, stating the essential facts in regard to any proposed promotion, transfer or reinstatement, the Commission will, if such promotion, transfer or reinstatement be in accordance with law and the provisions of these rules, issue its certificate of that fact to such officer.

2. All promotions, transfers and reinstatements herein authorized shall be made only after the issuance of such certificate, except those which may be specifically exempted from such condition by regulation of the Commission.

RULE XIX. DEFINITION OF CLASS III

Class III shall include such skilled laborers, attendants and other positions of a minor grade as are named in this rule, *provided*, that no position the duties of which require the incumbent to come in

contact with the inmates of any hospital, asylum, prison, reformatory or like institution of charity or correction, shall be considered that of an unskilled laborer.

Class III shall comprise the following positions and such other positions as may hereafter be added :

POSITIONS IN CLASS III

All mechanics, craftsmen, tradesmen, skilled laborers, whose annual compensation is less than \$720; and where positions as mechanics, craftsmen, tradesmen, or skilled laborers are enumerated in the following list such classification shall be held to apply only to such positions where the compensation is less than \$720.

In the office of the Comptroller :

The watchman

In the office of the Treasurer :

The watchman

In the Insurance Department :

The watchman

In the Department of Public Instruction :

Porters

In the Department of Public Buildings :

Porters, upholsterers

In the Department of Public Works :

The harbor masters

In the State hospitals and asylums :

Watchmen, policemen, barbers, supervisors,
nurses, attendants, ward-helpers, house-
keepers, chefs, cooks, bakers, meat-cut-
ters, laundry overseers, head laundresses,
linemen, plumbers, steam-fitters, firemen,
master mechanics, carpenters, painters,
blacksmiths, foremen, tailors, shoemakers,
printers, book-binders, farmers, dairymen,
gardeners, florists, conductors

In the office of the Fisheries, Game and Forest
Commission :

The protectors and foresters

The assistant oyster protector

In the office of the Adjutant-General :

The keeper of the military bureau

The janitor of the military bureau

In the office of the Chief of Ordnance :

The watchman

In the Onondaga Salt Springs at Syracuse :

Three inspectors of salt

Three block inspectors

The overseers of pumps

The superintendents of aqueducts and reser-
voirs

The inspectors of barrels

The engineers

The pumpers

In the State Prisons :

The machinists

The assistant matrons

The foreman, manufacturing department

The examiners, manufacturing department

In the prison for Women at Auburn :

The attendants

In the State Reformatory at Elmira :

Hospital stewards

Machinists

Firemen

Office boys

In the State Industrial School at Rochester :

Nurses, housekeepers, patrolmen, yard officers,
dining-room officers, dormitory officers,
guard-house officers, farm guards, gate
keepers, caretakers, attendants, cooks,
superintendent of hospital, superintendent
of kitchen, milk sterilizer, dentist

In the House of Refuge for Women at Hudson :

Supervisors, assistant supervisors, watchmen,
marshals, firemen

In the Thomas Orphan Asylum at Versailles :

Attendants, cooks, head farmer

In the House of Refuge for Women at Albion :
Nurses, cooks, seamstresses, firemen

In the School for the Blind at Batavia :
Housekeepers, ushers, bakers, cooks, laundresses, firemen, florists, carpenters, yardmen, janitors

In the Soldiers and Sailors' Home at Bath :
Cooks, blacksmiths, linemen, steam-fitters, firemen, carpenters, nurses

In the Department of the Quarantine Commission :
Firemen, cooks, boatmen, carpenters

In the Department of the Health Office of the Port of New York :
Ship-keepers, firemen, fumigators, nurses, watchmen

RULE XX. EMPLOYMENT IN POSITIONS IN
CLASS III

1. The positions in Class III must be filled by such persons as upon proper non-competitive examination shall be certified as qualified to discharge the duties of such positions by an examiner or examiners selected or appointed for that purpose by the Commission, *provided*, that from time to time the Commission shall transfer positions from this class to Class II, whenever it may be practical to hold competitive examinations to fill them. The head of any office,

department or institution in which there may be a vacancy or vacancies in any position or positions in this schedule, may name for examination a person for each vacancy. The Commission may provide by special regulation that in any institution where a number of persons are employed in the same grade, the employing officer may name for examination more than one person, in order that there may be a list of qualified persons from which to make an immediate selection in case of vacancy. Such nominations may be made to the Commission, or to an examiner or board of examiners, as the Commission may prescribe by regulations.

2. The Commission shall select, appoint and commission examiners or boards of examiners to test the qualifications of persons named for employment in positions in Class III, and they shall be subject to the provisions of the third section of Rule X.

3. Examinations for positions in Class III shall be such as shall determine the following qualifications:

First. That the person examined is within the limits of age prescribed for the position or employment to which he has been named ;

Second. That he is properly certified as free from any physical defect or disease which would be likely to interfere with the proper discharge of his duties ;

Third. That his character is such as to qualify him for such position or employment ; and

Fourth. That he possesses the requisite knowledge

and ability to enter on the discharge of his duties in the service.

To preserve a uniform standard in such qualifications for like positions and employments in the several institutions and offices of the State service, the Commission, after consultation with the principal officers concerned, may by regulations prescribe uniform limitations and tests for the government of the examiners.

RULE XXI. DEFINITION OF CLASS IV

Class IV shall include unskilled laborers, which term shall embrace such laborers as are not included in Class III. Unskilled laborers may be employed without examination.

RULE XXII. REPORTS OF APPOINTING OFFICERS

For the purpose of certification to the Comptroller, or other fiscal officer, for the payment of salaries as required by law, and in order that the Commission may keep proper record of the service and of changes in it, each appointing and employing officer shall report to the Commission as required by law, and in such form and manner as it may prescribe, as follows:

1st. Within twenty days after the date of the promulgation of these rules:

(a) A list of all the positions and employments in the classified service under his control or authority on the date of the promulgation of these rules, giv-

ing the name and compensation of each position or employment, with the duties thereof, in accordance with the definitions given in Rule VII.

(*b*) A list of all the positions and employments in the classified service under his control or authority, as arranged under the three classes as defined in these rules, giving the names, designations, compensations, and dates of original appointment, latest promotion or employment and commencement of service of all persons serving in said positions and employments.

(*c*) Every position in his office in the unclassified service with the compensation thereof, and the name and date of appointment of the person occupying the same.

2d. From time to time after the date of the promulgation of these rules and upon the date of the official action in or knowledge of each case :

(*d*) Every original appointment or employment whether probational, temporary, or otherwise, with the date of commencement of service.

(*e*) Every failure to accept an appointment under him by a person who has been duly certified, with the reasons, if any, given therefor ;

(*f*) Every discharge at the end of probationary term with the date thereof ;

(*g*) Every vacancy in a position, whether caused by dismissal, resignation or death, with the date thereof ;

(*h*) Every new position with the duties of the

same, as defined in Rule VII, and the compensation thereof ;

(*i*) Every position abolished with date of such abolition ;

(*j*) Every change of compensation in a position with the date thereof ;

(*k*) Every change in the duties of a position that may require its re-classification, with the date thereof ;

(*l*) Every promotion giving the positions from which and to which made, with the date thereof ;

(*m*) Every transfer, giving the positions from which and to which made, with the date thereof ;

(*n*) Every reinstatement in a position, with the date thereof.

RULE XXIII. CERTIFICATIONS TO FISCAL OFFICERS

1. The Commission shall keep in its office an official roster of the classified civil service of the State and shall enter thereon the name of each and every person who has been appointed to, employed, promoted or reinstated in any position in such service upon such evidence as it may require or deem satisfactory that such person was appointed to, or employed, promoted or reinstated in the service in conformity with the provisions of law and of these rules. The official roster shall show opposite or in connection with each name the date of appointment, employment, promotion or reinstatement, the class, group, subdivision and grade of and the office in

which and the compensation of the position, date of commencement of service, and the date of transfer in or separation from the service by dismissal, resignation, cancellation of appointment, or death.

2. Whenever the name of a person, appointed to or employed, promoted, transferred or reinstated in any position in the classified service, is entered upon the official roster as provided above the Commission shall certify to the Comptroller or other fiscal officer duly authorized to pay or draw a warrant for the payment of the salary of such position, the name, position, office, compensation and date of commencement of service of the person so appointed, employed, promoted, transferred or reinstated; and in like manner shall certify to the officials aforesaid any separation of a person from the service, or other change therein, and the name of any person appointed or employed in the civil service of the State in violation of law or of the rules and regulations made in pursuance of law.

3. Upon satisfactory evidence that, with intent to evade the provisions of law and of these rules any person appointed to or employed in any position in the classified service has been assigned to perform duties other than those for which he was examined and certified, the Commission shall cancel its certification of such person by formal notice to the fiscal and appointing officers, and the appointment or employment of such person shall be void on and after five days from the date of such notice.

RULE XXIV. POWER OF APPOINTMENT AND REMOVAL

Subject only to the qualifications required to be ascertained in accordance with these rules, the power of appointment and the responsibility of selection are in all cases in the appointing officer. The power to remove (existing by law) on the part of any officer is not impaired by anything contained in these rules.

RULE XXV. COUNTIES, TOWNS AND VILLAGES

These rules shall not apply to the officers of counties, towns or villages.

ASSIGNMENT OF JUSTICE BARNARD TO
DUTY IN THE SUPREME COURT, AND
DESIGNATION

STATE OF NEW YORK

Executive Chamber

WHEREAS the term of office of the Honorable JOSEPH F. BARNARD as Justice of the Supreme Court in and for the Second Judicial District having been abridged by the limitation of age prescribed by section twelve of article six of the Constitution and he having thereby become entitled to receive for the remainder of the term for which he was elected, to wit until the thirty-first day of December in the

year 1899, the compensation established by law and which compensation is now being received by him, and

WHEREAS He having consented to be assigned to the duty in the Supreme Court which is hereinafter specified, and it appearing to my satisfaction that the public interest requires it;

Therefore By virtue of the power conferred upon me by section twelve of article six of the Constitution and upon the filing of his written consent to such assignment I do hereby assign the

Honorable JOSEPH F. BARNARD

to preside at and hold Trial Term, part twelve, of the Supreme Court in the First Judicial District for the January term in the year 1897 and to perform all of the duties of a justice presiding at such term.

Given under my hand and the Privy Seal of the State at the Capitol in the city of Albany this fourteenth day of December in the year of our Lord one thousand eight hundred and ninety-six

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

MATTER OF TAMSEN, SHERIFF — ORDER
DISMISSING CHARGES, AND OPINION.

STATE OF NEW YORK

Executive Chamber

*In the matter of the charges preferred against Edward
J. H. Tamsen, the Sheriff of the county of New
York— Order Dismissing Charges*

Charges of misconduct in office and neglect of duty having been heretofore preferred by Henry Grasse, W. Brockner and others against Edward J. H. Tamsen, the sheriff of the county of New York, and a copy of said charges having been duly served upon the said Edward J. H. Tamsen, and he having filed his answer thereto denying any misconduct or neglect of duty, and an order having been made by me appointing the Hon. WILLIAM H. ROBERTSON of Katonah the commissioner to take the testimony and examination of witnesses as to the truth of such charges and to report the same to me and also the material facts which he deemed to be established by the evidence, and the said commissioner having taken the testimony relating to such charges and in refutation thereof, and his report bearing date November 19, 1896, and the evidence taken by him having been duly filed, and it appearing to me after a careful examination of the same that the facts disclosed in this proceeding are not sufficient to warrant the finding

that the sheriff is guilty of negligence or misconduct which would justify his removal from office, therefore it is hereby

Ordered That the said charges against the said Edward J. H. Tamsen be and the same are hereby dismissed.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L s] Albany this fifteenth day of December in the year of our Lord one thousand eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

STATE OF NEW YORK

Executive Chamber

Albany, December 15, 1896

In the matter of the charges preferred against Edward J. H. Tamsen, Sheriff of the County of New York — Opinion

Henry Grasse, W. Brockner and others have preferred charges against Edward J. H. Tamsen, sheriff of the county of New York, alleging that he is incompetent and has been guilty of gross negligence in the performance of his duties. The charges

contain numerous specifications and are amplified with considerable detail. A copy of the charges was served upon Mr. Tamsen and his answer thereto in writing was filed, in which he denies the allegations made by the petitioners, and sets forth at some length the matters referred to in the charges, for the purpose of showing that his management of the office has been prudent, that he is not incompetent, and has not been negligent in the performance of his official duties.

The Hon. William H. Robertson of Katonah was appointed a commissioner to take the testimony and examination of witnesses as to the truth of the charges and report the material facts which he deems to be established by the evidence. After the appointment of the commissioner additional charges were filed by H. B. Bradbury, Henry C. Robinson and others. These were of the same general character as the original charges and were considered by the commissioner during the investigation conducted by him. His report bearing date November 19, 1896, and the evidence taken by him have been duly filed. An examination of the evidence submitted with the report confirms the conclusions reached by the Commissioner and shows that the charges have not been sustained. Briefly stated the charges and the result of the evidence bearing upon them are as follows:

First. That the sheriff is incompetent, and to sustain this charge it is alleged that the wardens and

keepers of Ludlow Street jail appointed by him were negligent ; that these officers permitted prisoners to disguise themselves ; that the prisoners were allowed certain privileges for a money consideration ; that one Archibald, a warden, was guilty of public intoxication ; that the keepers assaulted several prisoners and were not punished therefor by the sheriff, and that such keepers allowed whiskey to be brought to the prisoners within the jail.

Second. That he negligently permitted the escape of three United States prisoners committed to Ludlow street jail, and it is alleged in the specifications that these prisoners were admitted to the jail without sufficient search ; that no sufficient watch was kept over them ; that such prisoners were allowed to go about and see friends ; that they were not prevented from making plans for escape, and that the jail was not sufficiently locked and guarded.

The evidence bearing upon these two charges shows that Mr. Tamsen was elected sheriff in 1894 and assumed the duties of his office January 1, 1895. As sheriff he is charged with the care and supervision of the county jail, known as Ludlow Street jail. After his election he undertook to make himself familiar with the duties and responsibilities of the office and selected competent counsel with whom he consulted as to the appointments to be made and also as to rules which it would be proper to adopt for the government of the jail. There were

eight appointments to be made at the Ludlow Street jail, namely : one warden and seven keepers. It seems that in making appointments he not only examined applicants personally but made diligent inquiry among their acquaintances concerning their qualifications, and it is quite clear that he undertook to appoint only such persons as were possessed of good character, intelligence and fitness for the responsibilities which would devolve upon them as officers of the jail. He retained four keepers already in office, most of whom had been employed for several years in the jail. Mr. Raabe was appointed warden. He was highly recommended, and besides had been personally known to Mr. Tamsen for many years. He was then holding an important public position, was quite prominent in several associations and was believed by Mr. Tamsen to be perfectly competent.

After the appointment of the wardens and keepers the sheriff prescribed rules for the government of the jail and instructed all of the officers to closely follow them. He also directed them to communicate with his office in case of emergency. He frequently visited the jail to see whether his instructions were being obeyed, and the warden reported to him at the sheriff's office nearly every day.

On May 31, 1895, Allen, Killoran and Russell, charged with robbing a post-office, were brought to the jail by a United States marshal. They remained in the jail until the morning of July 4, 1895, when

they escaped and did not afterwards return. While detained at the jail, passes were issued by the United States marshal to visitors who called at the jail to see these prisoners. They were also on several occasions taken by the marshal from the jail to the rooms of the United States Commissioner and then returned to the jail. It also appears that the marshal told the warden that they were dangerous persons and should be watched closely. Soon after the prisoners were taken to the jail they made an unsuccessful attempt to disguise themselves so that they might not be identified by the United States authorities. The sheriff upon hearing of the incident went to the jail to ascertain the facts and learned that the prisoners had cut and trimmed their hair and beard, and it was learned that they had used for this purpose a knife containing a pair of scissors which was not discovered when they were searched upon their admission to the jail. The sheriff also sent his law clerk to the jail, who took depositions in regard to the incident. Mr. Tamsen also gave orders to the warden that the prisoners must be locked up all of the time in separate cells and closely watched. These prisoners also made offers of money to the guard if he would permit an escape. The guard reported this circumstance to the United States marshal. They also offered money for the key opening the door of the jail, which fact was reported to the warden. The prisoners also, in accordance with the custom of the jail, paid \$15

per week for board and were allowed to eat in the warden's dining room and have the privileges of the jail yard. This money was paid to the city and neither the sheriff nor his warden or keepers in any way derived any benefit from it, for the reason that the sheriff receives a salary, without fees. The city pays the bills of the jail and all the income goes to the city. After the attempt by these prisoners to disguise themselves, the sheriff gave orders that they were not to be permitted to enjoy the privileges of the warden's table or of the jail yard, but should be locked up. It seems that his orders in this respect were not obeyed, and the warden continued to allow them these privileges. This indulgence by the warden was not known to the sheriff.

It also appears that persons were frequently admitted to see these prisoners without passes from the marshal, and that one of such persons, a notorious criminal, went frequently to the jail and was allowed to converse with them without proper precaution to prevent their making plans for escape.

The evidence shows that some time between the first of June and the morning of the fourth of July the prisoners obtained money and three revolvers. They escaped on the morning of the fourth of July under circumstances indicating extreme negligence on the part of the keepers. Immediately after the escape the warden admitted to the sheriff that he had not followed his instructions and had not kept

the prisoners locked up as he had been directed to do. The day after the escape the sheriff removed the warden and three keepers.

It is also alleged that after the removal of Warden Raabe, the sheriff appointed as warden James P. Archibald, and that he was guilty of intoxication. No evidence seems to have been taken upon this specification.

It is also alleged that prisoners confined in the jail were assaulted by keepers. Four instances are cited of this character. The evidence shows that the sheriff investigated these matters and as a result removed two of the keepers and suspended another until the matters in which he was directly concerned were further investigated, and after such investigation reinstated him.

The commissioner finds that the sheriff acted with promptness when the matter was brought to his attention, and removed the men when he was convinced that that they were incompetent.

Third. That one Illingworth, a prison guard, was guilty of negligence in permitting a person who had been committed to his custody by the Court of Oyer and Terminer to go about the city and enjoy certain specified privileges instead of at once taking him to the jail in obedience to the order of the court. For this misconduct Illingworth was punished for contempt of court. There was no evidence that the sheriff was a party to the transaction or cognizant of

it. Upon the facts being brought to Mr. Tamsen's knowledge, he demanded and received Mr. Illingworth's resignation.

Fourth. The sheriff is charged with negligence in omitting to summon twenty-eight jurors to attend the various trial parts of the Supreme Court in the city of New York. In his answer he admits that these persons were not summoned, but alleges that due diligence was used to notify them and that they could not be found. The commissioner reports that no evidence was given upon this charge.

Fifth. That during the month of January, 1895, the sheriff employed an unlicensed auctioneer to conduct sales at auctions upon executions delivered to him for collection. The evidence shows that one August Schwab was a clerk of the firm of auctioneers employed by the sheriff, and that he (Schwab) sometimes acted as crier at auctions, but only in the presence of a member of the firm who had an auctioneer's license. The sheriff's attention being called to the fact that Schwab was acting as auctioneer, the firm was directed not to permit him to further act as crier without a license. The sheriff's instructions were obeyed.

Sixth. The sheriff is charged with collecting and receiving excessive fees for the performance of various official duties. Several instances are specified in the original and supplemental charges, but they relate almost entirely to the sale of property on

execution and it is alleged that the sheriff's auctioneers received five per cent. as their commission upon the amount of the sale instead of the legal rate of two and a-half per cent. The commissioner reports that in each instance where it was proven or alleged that the sheriff's auctioneers had charged and received five per cent., it was also proved that such charge was by agreement with the attorneys of the judgment creditor and not otherwise. It seems that the sheriff had no interest in these fees or extra fees and derived no benefit from them. There was a controversy between certain litigants and the sheriff as to his right to retain five per cent. for auctioneer's fees and the matter was submitted to a justice of the Supreme Court who, under the circumstances disclosed, decided that the auctioneers were not entitled to this fee. After such decision the sheriff required a previous agreement in each case before retaining this amount for auctioneer's fees.

Seventh. It is alleged that the sheriff permitted his auctioneers to make excessive charges for advertising under execution and otherwise. It appears that the computations by the sheriff's clerk did not agree in all cases with those made by the managers of the newspapers in which the advertisements were published, but it does not appear that there was any attempt to overcharge, and the difference seems to be due to mistakes in computation.

Eighth. It is charged that one of the sheriff's

deputies, Charles M. Laub, wrongfully exacted from certain watchmen and employees various sums of money for corrupt and unlawful employment by the sheriff, and that the sheriff was requested to investigate these charges, but failed and neglected to remove Laub from office or to punish him in any way. Three cases were specified. In one of these cases it appears that a watcher, upon being paid, on one occasion attempted to give Laub or his clerk two dollars. This watcher was discharged and not again employed. The evidence upon the other charges of this character is not I think sufficient to warrant the inference that the sheriff's officers were guilty of any irregular conduct.

Ninth. It is charged that the sheriff permitted his deputies to exact illegal fees in the employment of watchers to take care of property after a levy and until its sale. It seems quite clear that the sums charged were proper.

Tenth. It is alleged that between January, 1895, and February 15, 1895, the sheriff exacted from the city of New York the sum of thirty-seven and a half cents per day as board for certain persons. It seems that certain persons who took the poor debtor's oath and were not able to board themselves were boarded at the rate of thirty-seven and a-half cents per day. The Commissioner reports that this amount went to the comptroller who paid all the bills of the jail and the sheriff in no way received any benefit from it.

This summary of the charges and the evidence clearly shows that Mr. Tamsen has tried to properly perform the duties of his office and has endeavored to exercise adequate supervision over the conduct of his subordinates.

The sheriff holds an important office, and the proper performance of its duties requires discretion, firmness, vigor and intelligence. The citizen in the enforcement of his private rights must often rely very largely upon the prudence and faithfulness of the sheriff, and many of the most important and complicated questions relating to matters involved in the administration of public affairs are committed to him. The people have a right to expect a high degree of care in the administration of this office, not only by the sheriff himself but also by his subordinates; he is bound to use great prudence in their selection and should retain only those whose fitness is clearly established.

In this proceeding the charges against the sheriff relate almost exclusively to the conduct of his subordinates, but it is claimed that he was guilty of negligence in making appointments. The head of a department must almost necessarily make experiments in the appointment of his subordinates. He can scarcely do more than undertake to obtain the best information available concerning their qualifications, and if he obtains this information and exercises his best judgment, he is not a fair subject of criticism,

even if the wisdom of his selection is sometimes not justified by experience.

The relations of the head of a department to his subordinates were discussed by me in another recent inquiry of a character similar to this, and I there took occasion to say that where the head of a department has the responsibility of the appointment and removal of his subordinates, "it is his duty either to know from day to day what is going on, or to investigate any supposed irregular transactions to which his attention is called, and if he knows or has good reason to believe, or if his investigation shows, that his subordinates are guilty of improper conduct, it is his duty to remove them. If he does not do so, his failure to cause their removal is a proper ground of complaint to the Executive."

It appears here that Mr. Tamsen did investigate the conduct of several of his subordinates against whom charges were made and removed those whose unfitness was satisfactorily shown. He brings himself within the rule laid down in the decision from which I have quoted, and it is very clear that he cannot fairly be charged with incompetency or negligence of duty when he promptly removed unfit subordinates. It should also be borne in mind in this case that the sheriff cannot always know from day to day all that his numerous subordinates are doing, and if he exercises over them the greatest watchful-

ness which circumstances permit, no more can fairly be required.

Upon the whole case I am of the opinion that the facts disclosed are not sufficient to warrant the finding that the sheriff has been guilty of negligence or misconduct which would justify his removal, and the charges are therefore dismissed.

LEVI P. MORTON

ASSIGNMENT OF JUSTICE BARNARD TO DUTY IN THE SUPREME COURT

STATE OF NEW YORK

Executive Chamber

WHEREAS The term of office of the Honorable JOSEPH F. BARNARD a Justice of the Supreme Court in and for the Second Judicial District having been abridged on the thirty-first day of December, 1893, by the limitation of age prescribed by section twelve of article six of the Constitution, and he prior to said date having served ten years as said justice and having thereby become entitled to continue to receive the compensation established by law for the remainder of the term for which he was elected, to wit until the thirty-first day of December, 1899, and which compensation is now being received by him, and he

consenting to be assigned by the Governor to any duty in the Supreme Court while his compensation is so continued, and it appearing to my satisfaction that the public interest requires it ;

Therefore By virtue of the power conferred upon me by section twelve of article six of the Constitution and upon filing his written consent thereto, I do hereby assign the

Honorable JOSEPH F. BARNARD

to any duty in the Supreme Court which he might lawfully have performed if his term of office had not been abridged as aforesaid, for and during the term ending December thirty-first, 1897.

Given under my hand and the Privy Seal of
the State at the Capitol in the city of
[L S] Albany this twenty-second day of Decem-
ber in the year of our Lord one thousand
eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

DESIGNATION OF JUSTICE BARNARD
TO HOLD EXTRAORDINARY SPECIAL
TERMS OF THE SUPREME COURT

STATE OF NEW YORK

Executive Chamber

IT APPEARING to my satisfaction that the public interest requires it,

Therefore In accordance with the statute in such case made and provided I do hereby appoint Extraordinary Special Terms of the Supreme Court to be held at the court-house in the city of Poughkeepsie in the county of Dutchess on Saturday the second day of January, 1897, and on each and every Saturday thereafter at ten o'clock in the forenoon for and during the term ending December thirty-first, 1897, said Special Terms to continue so long as may be necessary for the disposal of the business that may be brought before them ; and

I do hereby designate and assign to hold each of said Extraordinary Special Terms of the Supreme Court the

Honorable JOSEPH F. BARNARD

a Justice of the Supreme Court whose term of office has been abridged pursuant to the provisions of section twelve of article six of the Constitution but who with his consent has been by me assigned to duty in the Supreme Court for the term above stated ; and

I do further direct that notice of the appointment aforesaid be given by publication of this order once in each week for two weeks prior to the said second day of January, 1897, in the *Poughkeepsie News-Press* and the *Poughkeepsie Eagle* newspapers published in the city of Poughkeepsie, and on filing a copy thereof on or before the thirtieth day of December, 1896, in the office of the clerk of each county in the Second Judicial District.

Given under my hand and the Privy Seal of
the State at the Capitol in the city of
[L s] Albany this twenty-second day of De-
cember in the year of our Lord one thou-
sand eight hundred and ninety-six.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

PUBLIC ADDRESSES

AND

CORRESPONDENCE

OF

GOVERNOR LEVI P. MORTON

1896

ADDRESSES

INAUGURAL ADDRESS DELIVERED AT THE CAPITOL ON JANUARY 1, 1895

Governor Flower :

Your cordial welcome and kindly words are but the continuation of the repeated courtesies which you have extended to me since the election, and which I can but inadequately acknowledge ; but they merit my gratitude and will be cherished in grateful remembrance. They also serve to awaken the hope that at the close of my term the people may believe of me, as they do of you, that in all the affairs of this great office I was guided by patriotism and an earnest desire to serve them faithfully.

You will carry with you into private life the good wishes of the people. During the one hundred and seventeen years that have passed since the adoption of the Constitution of our State, the office of Governor has been occupied by many who were not alone

distinguished in the State but were foremost among the statesmen of the nation. And I am reminded that you also have honorably borne your part in the federal service. But there is no man who may not feel justly proud in having his name inscribed on that roll of honor which records the public services, and achievements of the chief magistrates of the Empire State.

Fellow Citizens :

We are justly proud of the great State in which we live, and I should be restraining my feelings if I were to withhold this public acknowledgment of my appreciation of the honor which has been conferred upon me by my election as its chief executive. Nor can I be otherwise than deeply sensible of the fact that, with the honor and personal gratification there comes a grave responsibility — the keeping unsullied of a sacred trust. Varied and vast powers are vested in the hands of the Governor by the people, in the firm reliance that he shall and will exercise them wisely and well — not for personal or partisan advantage, but for the common good. The State government touches the people much more closely than does the national government. It reaches into every relation of life, and largely influences not only the material welfare, but the moral and intellectual condition of more than six millions of people.

Many questions of importance will confront the

Legislature and Governor of the State during my official tenure of office—questions which will demand for their solution inflexible integrity and a high conception of public duty. The post of honor is also the post of labor. The ruler of the people, under our enlightened form of government, is also the servant of the people.

The Constitution which I have just sworn to support defines in a general way the duties of the office upon which I am about to enter. I shall strive to discharge the duties for the best interests of the whole people. And I invoke therefore the earnest support of all those who are in authority, in behalf of an honest and economical administration of government, for the promotion of the true prosperity of our fellow citizens and the glory of our State and nation.

THE GOVERNOR'S WELCOME TO FIELD MARSHAL
YAMAGATA, APRIL 12, 1896

FIELD MARSHAL YAMAGATA—I take pleasure on behalf of the people of the State of New York in welcoming you within our borders and in expressing to you and the members of your suite, the hope that your stay among our people, brief though it may be, will be so fraught with good impressions that it will

always carry pleasant memories. I do this with the more gratification, recalling my pleasant social and official intercourse with the Ambassador of your Empire at Paris, during my own official residence in the French capital. For nearly forty years the relations between the governments of Japan and the United States have been drawing closer and closer and always through the mediums of intellectual and commercial association and intercourse. New York, as the chief commercial and industrial State of our Union, is conspicuously interested in the maintenance and extension of these humanizing and friendly relations. As one who has already dwelt among us and whose personal relations have been so close, you doubtless appreciate the sentiments which actuate our people in their modes of life and their aspirations, and I feel that in extending to you this informal greeting we are simply renewing pleasant acquaintanceship and that you will receive it in the same generous and appreciative spirit.

FAREWELL ADDRESS DELIVERED AT
THE CAPITOL ON JANUARY 1, 1897

FELLOW CITIZENS: I take this occasion to express my grateful acknowledgments to the people of the State for the many distinguished honors they have conferred upon me, and also especially for the cour-

tesy, the uniform kindness, and the considerate forbearance which have been extended to me during my administration as Governor. As I retire again to private life I shall carry with me the most agreeable recollections of the hearty good will which has been manifested toward me by our people. To serve such a people has been a continual pleasure, and to have enjoyed the opportunity of being their servant, even for a brief period, is an honor not soon to be forgotten.

The simplicity of Republican institutions forbids any ostentation upon an occasion like this, yet the transfer of authority incident to a change in the chief magistracy of the Empire State is an event of great importance, and it should be consummated by the observance of a ceremonial comporting with the dignity of a free and enlightened people. Hence it is peculiarly appropriate that here in the presence of their fellow citizens, the chief magistrate of yesterday and the chief magistrate of to-day should meet and respectively transfer and receive the authority and power of a great office.

These ceremonies illustrate the maxim that "the king never dies," for one chief magistrate lays down authority, and his successor takes it up, while the machinery of government moves on noiselessly, without friction or disturbance. It is the glory of constitutional government that the State does not fall into anarchy upon a change of public officers.

The laws are executed and obeyed with the same authority and acquiescence as if the same person continued to administer the government. Men change, but systems continue.

We have come to the close of another administration, the first under the new Constitution, and we find our State in a condition of prosperity, still moving forward in its career of primacy, destined to continue as it has been so many years, "the Empire State."

Pliny the Younger wrote of the "majesty of Roman peace;" but it was a peace inspired by fear, and maintained by force. We enjoy a peace not less majestic, and infinitely more beneficent, for it is founded upon the intelligence and devotion of our people, maintained by their patriotism and protected by adequate constitutional barriers and safeguards. A written Constitution, recognizing and protecting the liberty of the citizen, is the highest expression of human wisdom in the administration of social order.

Our State has passed through three constitutional periods, each of which was a period of evolution and development. The first Constitution of 1777 was the product of revolutionary conditions, adopted during an armed conflict for independence, when the government was in a transition state, and when its framers were more interested in the preservation of existing institutions and in dissolving their

relations with the parent government, than in framing and putting into operation more theories of administration; hence that Constitution continued colonial conditions, and in many respects the transition from colonial to state government was merely formal, and almost imperceptible. It was soon discovered that this Constitution was inadequate for the wants of a people destined to supremacy in state affairs, and that they could not under its limitations accomplish the highest results.

In 1822 the people adopted a new Constitution, broader in its scope, more elastic in its provisions, and more suitable for the development of free government. This was the fundamental law for nearly a quarter of a century, but it could not well continue without embarrassing a people who felt more and more the necessity of greater freedom of action, and who were constrained by the limitations imposed upon them.

In 1846 the third Constitution was adopted, which changed in many respects the scheme of administration prescribed by former instruments. It was thought that this Constitution was sufficiently elastic to admit the greatest growth and development, and for nearly half a century, with a few modifications, it continued to be the basis of government and administration. During this period the judicial system was reorganized; the departments of public works and prisons created; important limitations upon the

power of the Legislature were prescribed, and many fragmentary attempts made to modify and perfect the fundamental law.

The Convention of 1894 revised the whole Constitution, modifying each branch of the government. The legislature was increased one-fourth in numbers and additional limitations were imposed upon its powers. The executive branch was also changed and the judicial system received important modifications. Many changes were also made in the administrative features of government, several statutory departments were made constitutional, and the scope of the entire instrument was greatly broadened. This Constitution was ratified in all its parts by the people, and in most of its provisions went into operation on the first day of January, 1895. It was my high privilege to assume the duties of the office of Governor on the same day, and to begin my administration with the opening of our fourth constitutional period. How long this period will continue no one can even conjecture, but I believe it is the almost universal opinion that we now have a Constitution ample in its scope, simple and clear in its declaration of principles, sufficiently elastic in its provisions, and adequate for all general purposes of government under present conditions ; and I count it no small honor that I have been permitted to occupy the office of chief magistrate of this State

and to take some part in carrying into effect the mandates of the new Constitution.

Much legislation has been required, and also many modifications of existing institutions. The changes in administration have also made it necessary to change well-established precedents and methods of transacting public business. All those things have required careful and patient attention by the legislature, by the different administrative departments, by the courts, and by the executive; and after two years of experience in adapting the new constitutional provisions to the every day affairs of State administration, we find the machinery of government running smoothly in all its parts.

During the last two years the body of legislation has been large, and much of it very important. Municipal development, and the concentration of population and wealth in cities, required special attention at the hands of the last Constitutional Convention, and provisions were incorporated in the Constitution for the express purpose of conferring upon these municipalities a modified measure of home rule. The result of this constitutional amendment, and the legislation consequent upon it, has been to relieve the legislature in some measure from responsibility, and to impose upon the governing bodies of the cities a corresponding responsibility for local legislation. I believe that the operation of this constitutional provision has been, in the main,

satisfactory, and that the opportunity for consideration of pending legislation by the people directly affected, and the publicity given to all such proceedings, tends to prevent hasty legislation, and cannot, I think, fail to be of great benefit to local administration.

In a State like ours, with such a large and diversified population, with vast commercial interests, and presenting complex municipal problems, the quantity of legislation is necessarily considerable, and while this quantity would be materially reduced by the adoption of general laws, the aggregate of legislation must still continue large. Communities grow and develop in different parts of the State under quite diverse conditions, and present varying features of administration. It has been found extremely difficult to reconcile these differences and produce a general scheme of government that will fit all conditions ; and aside from municipal affairs, the commercial, business and social interests of the State constantly present problems demanding legislative solution. These subjects have assumed great magnitude, and the legislation incident thereto is not only large but frequently complicated and very important.

During the last two years there has been important legislation upon nearly every branch of administrative affairs in which the people of the State are interested. Much of this was incident to the new Constitution, which modified the three great branches

into which the government is divided. It also established new departments and extended the powers of those already existing, so that important legislation was needed to put into operation the new or the modified machinery of government. There has also been much legislation of a general character, not directly relating to the Constitution. This legislation shows that the tendency of our people is toward greater development in administration, and the accomplishment of a more perfect scheme of government. Many subjects which have received legislative attention possess more than ordinary significance.

Patriotism finds expression in statutes prohibiting the display of foreign flags upon public buildings, and requiring our own flag to be displayed upon school-houses; providing for the erection of suitable monuments to commemorate the services of New York soldiers in the War of the Rebellion; for the erection of a monument to General Herkimer, to commemorate the victory won by him, which was perhaps the turning point in the Revolution; providing for the acquisition of the John Brown farm; the purchase of the Saratoga monument, and the preservation of the house at Mount MacGregor where our greatest general breathed his last.

Reforms have also been initiated by the enactment of laws intended to improve and protect public health, by the inspection and sanitation of bakeries

and tenement houses, and also for the improvement of the condition of employes in mercantile establishments.

The cause of education has not been neglected. It has received special attention by the enactment of laws intended to effect a scheme of compulsory attendance at schools; for the education of teachers; the instruction of those intending to enter various professions, and by liberal appropriations for the maintenance of our common schools.

Charity finds expression in the revision of the laws relating to the poor and insane; in the reorganization of the State Board of Charities, and the extension of its powers.

The subject of the use and sale of intoxicants received serious and extended consideration, resulting in the enactment of two important laws, one providing for instruction relating to the effects of narcotics and stimulants, and the other a general revision of the excise laws, introducing a new scheme of taxation and regulation of the liquor traffic, intended not only to restrain within practicable limits the sale of intoxicants, but also to compel persons engaged in this business to make a larger contribution toward public expenses incident in a great measure to the traffic itself.

The scheme of statutory revision has been carried forward by the enactment of ten general laws, relating to taxation, real property, state charities, insanity,

poor, religious corporations, domestic relations, domestic commerce, benevolent orders and membership corporations. I am informed that an almost equal number of bills for the revision of other subjects will be presented to the next Legislature, and that the scheme of revision will then be nearly complete.

During these two years the enlargement and improvement of our internal waterways has received special consideration, not only by the Legislature, but by the people themselves, who have authorized the expenditure of nine millions of dollars. The very positive vote upon this proposition shows the clear determination of our people to preserve, continue and enlarge the facilities for transportation afforded by our great canals.

Not the least of the subjects which have received legislative attention, is the consolidation of the communities in this State situated about the harbor of New York. The Greater New York, the initial bill for the incorporation of which was passed at the last session of the Legislature, will, doubtless, become an accomplished fact, and we shall see in one community within our own borders, under one government, an aggregation of population second only to London, the metropolis of the world. The consideration of the complex problems presented by the scheme of union now being framed by the commission created for that purpose, must soon necessarily receive the careful attention of the Legislature.

The tendency of our people to congregate in large communities is very marked, and I think that, upon a fair estimate, fully five millions, or seventy per cent of the entire population, live in cities or incorporated villages. Three cities, namely, Little Falls, Johnstown and Watervliet, have been created during the last two years. Many villages have been organized under the general law. These smaller communities aggregate about four hundred, and embrace a population of more than half a million. The need of a more satisfactory scheme of government for villages has been seriously felt, and I am informed that a new village charter has been prepared and will be presented to the next Legislature for its consideration.

A general scheme of village administration, sufficiently broad to admit local self-government according to the varying conditions of widely separated communities, will do much to reduce the bulk of special legislation which is now accumulating upon our statute books, and will afford very material relief to the Legislature. Owing to the fact that such a large percentage of our people are residents of those two classes of municipal corporations, municipal affairs are and must continue to be an important feature of legislation.

The regulation of the civil service of the State is now a subject of constitutional requirement, and while there has been no revision of the civil service

law, nor has the subject received special legislative attention, it has nevertheless been carefully considered by the courts, the civil service commission, and the executive, with the result that a thorough revision of the civil service rules and a reclassification of the offices was recently effected and promulgated.

This brief review of recent constitutional and statutory development shows that our people have not forgotten their motto, and that they fully appreciate the responsibility imposed upon them by their geographical, commercial and social position in the family of States. We look into the future with unwavering confidence that New York will continue to be the pioneer in great reforms, and will not cease to exercise a powerful and beneficent influence in the affairs of the Nation. To this end it behooves us to see that the broadest principles of liberty are maintained, the wisest administration achieved, and our highest aspirations fully realized.

To be chosen chief magistrate of the great State of New York is a distinction which the proudest citizen may honorably covet ; but while the office confers upon its incumbent a very distinguished honor, it should not be forgotten that our Constitution and laws impose upon the executive very grave duties, and also responsibilities from which the most self-confident might reasonably shrink. Both the public and private interests committed to his care frequently present very delicate questions, requiring the most thoughtful and patient consideration.

You have chosen as my successor a man who comes to his high station bearing the confidence, the good will and the best wishes of our people. He enters upon the duties of his office under auspicious circumstances, and his administration will, I doubt not, be marked by wisdom and patriotism.

I bespeak for Governor Black your cordial and patriotic support.

Mr. BLACK — The people are assembled here to-day to witness, in simple ceremony, the transfer of the Executive power of the State of New York from my official hands to the hands of yourself as my lawful successor. There is, there can be, no more impressive illustration, either of the power or the simplicity of the beneficent governmental system under which we are privileged to live, than that which is afforded by these dignified yet unostentatious ceremonies. By an expression of the popular will, unprecedented in the history of the State, you have been chosen to exercise the powers of chief magistrate in a commonwealth of seven millions of people, and to sit as the successor of Clinton, Jay, Van Buren, Marcy, Seward, Morgan and a long line of distinguished predecessors. You will be the thirty-fifth incumbent of the office of Governor of the State, and this is the fifty-first ceremony of inauguration. The great majority which you received in the recent general election, must impress upon you a gratifying sense of the fact that you are

near to the mass of the people, and it also imposes upon you if possible, a greater and more direct accountability to them. Under the Constitution you are expressly charged "to see that the laws are faithfully executed." The powers conferred upon you are grave and diversified in character. The office, while it is invested with high honor, is not free from anxieties and cares; if it has its rewards, it has also its burdens and its possible condemnations; if it is attractive in its dignity, it is none the less beset with dangers and snares.

But I may be permitted to congratulate you upon your accession to the office of Governor, particularly by reason of the fact that the financial and administrative affairs of the State are in a prosperous and easy condition; that you will have the support of a Legislature, both Houses of which will be in full accord with the will of the people; that there are in prospect no bitter contentions or controversies, no serious differences on public questions to be fought out through your administration. And finally, it gives me pleasure to welcome you personally as my constitutionally chosen successor to the office of Governor. The people have confidence in you, and in their name as well as in behalf of the friends of representative government, I beg to express the hope and belief that your administration will conserve the best interests of the State, and bring lasting credit to yourself.

OFFICIAL CORRESPONDENCE

THE CASE OF BARTHOLOMEW SHEA

LETTER TO THE ATTORNEY-GENERAL

STATE OF NEW YORK
Executive Chamber

Albany, January 15, 1896

Hon. THEODORE HANCOCK, *Attorney-General*

DEAR SIR— I have received from JOHN P. KELLY, ESQ., District-Attorney of Rensselaer county, a communication, a copy of which I enclose. I have also received the papers referred to in the letter, which papers I also hand you herewith.

Mr. Kelly asks to be relieved from any responsibility upon the motion now pending in the Supreme Court for a new trial on behalf of Bartholomew Shea. There seems to be no statute indicating any special course in cases of this kind, and no law authorizing the relief of a district attorney from his general official responsibility; but, for the reason stated in his letter, it seems desirable, if proper, that other counsel represent the people upon the pending motion; and under the general duty imposed upon the Governor, to "take care that the laws are carefully executed," I

deem it proper to commit this matter to your charge, and suggest that you pursue such course as your judgment may approve and as the public interest may seem to require.

Very truly yours

LEVI P. MORTON

MASSACHUSETTS' DEAD GOVERNOR.

TELEGRAM OF CONDOLENCE UPON THE DEATH OF
GOVERNOR GREENHALGE

STATE OF NEW YORK

Executive Chamber

Albany, March 5, 1896

Hon. ROGER WOLCOTT, *Lieutenant-Governor of Massachusetts, Boston*

The people of the Empire State, in common with their fellow-citizens of Massachusetts, deplore the untimely death of GOVERNOR GREENHALGE, and unite with them in paying tribute to the memory of the high-minded chief magistrate who has fallen at his post of duty.

LEVI P. MORTON

THE CIVIL SERVICE

THE EXCISE LAW AND THE CIVIL SERVICE — LETTER
TO THE ATTORNEY-GENERAL

STATE OF NEW YORK

Executive Chamber

March 23, 1896

Hon. T. E. HANCOCK, *Attorney-General, Albany,*
N. Y.

DEAR SIR — My attention has been called to the recent decision of the Court of Appeals construing the Civil Service amendment to the Constitution, and it is claimed that in establishing a new department of the State government under the Liquor Tax law, to which I have this day given my approval, certain officers, employees and agents connected with that department should be classified under Civil Service regulations.

I shall be pleased to receive your opinion upon this question at an early day.

Very truly yours

LEVI P. MORTON

RELATING TO THE NOMINATION OF HON. GEORGE P.
LORD AS CIVIL SERVICE COMMISSIONER

STATE OF NEW YORK

Executive Chamber

Albany, January 20, 1896

Hon. JOSEPH MULLIN, *Chairman Senate Finance*
Committee, Albany, N. Y.

DEAR SIR — The Governor directs me to transmit

to your Committee, for its information, the enclosed copies of correspondence had with Hon. GEORGE P. LORD concerning his nomination for the office of Civil Service Commissioner.

Very respectfully

ASHLEY W. COLE

Private Secretary

STATE OF NEW YORK

Executive Chamber

Albany, January 18, 1896

Hon. GEORGE P. LORD, *Dundee, N. Y.*

MY DEAR SIR—A few days ago I sent a communication to the Senate nominating you to the office of Civil Service Commissioner to fill the vacancy caused by the resignation of Willard D. McKinstry. Since your nomination, numerous objections have been made on the ground that you are supposed to be unfriendly to the civil service law and to civil service reform, and that if you should become a member of the commission your administration would be such as to diminish rather than increase the efficiency of the merit system, and would tend to bring into disrepute the system of appointments and promotions in the civil service according to the merit and fitness of the applicant.

The Civil Service Commission was created in 1883, and it has become an important department in the State government. It is charged with great responsibility, and its functions affect the highest interests of the State.

The sentiment in favor of the application of the principles of this reform to the civil service of the State has become quite strong, and is now crystallized in the constitutional provision incorporated by the amendment of 1894. This is the very highest expression of public opinion, and places the subject beyond the reach of partisan influence. The people have said in their fundamental law that the merit system should be applied to the civil service of the State and also to minor political subdivisions, and the Legislature is commanded to enact laws necessary to carry the constitutional provision into effect.

The provisions of the civil service law have been recently extended to the department of public works and also to the department of State prisons, and a large number of offices in other branches of the public service have recently been placed in the competitive list. In communications to the Legislature, I have taken occasion to comment upon the growing sentiment in favor of civil service reform, and to commend and approve the principles which now are or should be controlling in appointments to the public service.

You will readily perceive that the introduction into the commission of an element unfriendly to the faithful execution of the law would be seriously deprecated, not only by those who have taken a more active interest in the promotion of civil service reform, but by all who recognize the fact that this principle in state administration has become firmly established by years of successful experience and by constitutional provision.

I take this occasion of calling your attention to

the objections to your appointment, with the hope that you may find it convenient to express to me at an early date your views upon this subject.

Very truly yours

LEVI P. MORTON

MR. LORD'S LETTER

Albany, N. Y., January 20, 1896

Hon. LEVI P. MORTON, *Governor*

DEAR SIR— I am in receipt of your favor of the 18th inst., in which you inform me of my nomination to the office of Civil Service Commissioner, and in which you say that objection has been made to my appointment on the ground that I am supposed to be unfriendly to the merit system as applied to the civil service of the State.

This appointment was not sought by me but was suggested by my friends, who evidently believed me fit and competent for the office. I am not insensible to the honor conferred upon me by this nomination, nor indifferent to the responsibility which will be imposed upon me if the nomination be confirmed; and I deeply regret that any objection has been made which may in the least embarrass you in your official action, especially that I am the innocent cause of any criticism upon your administration.

I am surprised at the objection, because I am not aware of any thing in my history, public or private, which would warrant any one in supposing that I am not in sympathy with recent reforms in our civil service. I was a member of the Senate in 1883

when the civil service law was passed and voted for it. I have had peculiar opportunities for observing the practical workings of the law and the development of the ideas represented by it, and the result of my observation is that the application of the merit system to the public service conduces to its highest efficiency, and is not only proper but necessary to relieve the service from partisan influence, and secure the most thorough administration by competent officers. The incorporation of the civil service idea in the Constitution received my approval and support.

I think the tests to be applied in determining the fitness of an applicant for public service should be of a practical character, and relate to the peculiar duties of the office to be filled. I have for a long time applied this system in my private business and have found it safe and profitable, and I see no reason why it cannot be applied to the public service.

Without going further into detail, I beg leave to say that I am in hearty accord with the views expressed by you in your letter of the 18th, and that, if the nomination with which you have honored me be confirmed by the Senate, I shall endeavor to discharge the duties of the office of Civil Service Commissioner according to both the letter and the spirit of the law and the Constitution.

Very respectfully

GEO. P. LORD

THE CIVIL SERVICE — LETTER DIRECTING RE-CLASSIFICATION

STATE OF NEW YORK

Executive Chamber

Albany, August 4, 1896

To the Civil Service Commissioners

GENTLEMEN — By chapter 354 of the Laws of 1883, the policy of requiring appointments in the civil service to be based upon the fitness of applicants, was inaugurated in this State, and a commission was provided to administer the law under rules and regulations which the commission was given authority to prescribe, subject to the approval of the Governor.

The scheme for the regulation of the civil service contemplated by this statute has since been somewhat enlarged and modified by other legislation, and a section was incorporated in the revised Constitution of 1894 providing that "appointments and promotions in the civil service of the State, and of all the civil divisions thereof, including cities and villages, shall be made according to merit and fitness, to be ascertained, so far as practicable, by examination, which, so far as practicable, shall be competitive."

This constitutional provision permanently established the merit system in the public service of this State. It has been under consideration by our highest judicial tribunals, and has received a construction which substantially makes it self-executing and binding upon all officers charged with the responsibility of making civil appointments.

The rules and regulations prescribed by the Civil Service Commission upon its creation in 1883 have not since been seriously modified except in matters of detail, and the opinion is quite general among those interested in this subject that the civil service movement has outgrown the statutes and regulations upon which it was originally based, and that such rules and regulations should be recast and a new classification of the entire civil service made, to conform to the requirements of the revised Constitution and the enlarged scope of the public service. The experience of the commission during the last few months shows I think the necessity of a new classification, and the time seems to have arrived when such classification should be made and new rules and regulations established better adapted to existing conditions and conducive to a more satisfactory administration. The duty of providing for such administration still rests upon the commission and the Governor.

I think the Constitution clearly provides for three classes of appointments, namely: exempt, non-competitive and competitive, and the duty seems to rest upon the commission to determine in what cases applicants should be subjected to the examination, and in what cases, by reason of the peculiar responsibilities and functions of the office, an examination is not "practicable."

The Constitution giving persons possessing superior merit and fitness the primary right to appointment is modified by the provision giving preference to veterans, without regard to their standing on the eligible list. Service in defense of the nation is

made a specific qualification for appointment and must be taken into consideration, although other candidates may possess greater scholastic acquirements or business experience. The signal honor bestowed upon veterans by the Constitution cannot be ignored, and the new rules and regulations which may be recommended should make ample provision for a liberal interpretation of this constitutional requirement. For the purpose of giving effect to these suggestions and to such others as the commission may deem important, and with a view of placing the civil service upon a better business basis, and bringing it more clearly within the scope of the new Constitution, you are respectfully requested to prepare and submit at your earliest convenience, for executive consideration, such a revision of the rules and regulations concerning the administration of the civil service as you may deem proper, together with a new classification of such offices of the State, and of the civil divisions thereof, as may be within the present jurisdiction of the commission.

LEVI P. MORTON

LETTER TO HON. CARL SCHURZ

STATE OF NEW YORK

Executive Chamber

Albany, June 10, 1896

Hon. CARL SCHURZ, *President, etc., New York City*

DEAR SIR— I beg to acknowledge the receipt of your communication of the eighth instant and to

thank the Civil Service Reform Association of New York for its kind expression "of cordial appreciation of the advance the merit system has made under your (this) administration."

The propriety of a new classification of the civil service has already been under consideration, and the several suggestions contained in your communication will receive due attention.

Very respectfully yours

LEVI P. MORTON

A CASE OF REQUISITION

LETTER TO GOVERNOR HASTINGS RELATING TO FUGITIVE DREYFUSS

STATE OF NEW YORK

Executive Chamber

Albany, March 27, 1896

To His Excellency DANIEL H. HASTINGS, *Governor, Harrisburgh, Pa.*

DEAR SIR — On the 23rd instant, in pursuance of your Excellency's requisition, I issued a warrant for the surrender of Harry Dreyfuss as a fugitive from the State of Pennsylvania, but before the same could be fully executed, Dreyfuss applied for a hearing which was granted and was had before me yesterday. It was conclusively shown by affidavits read on behalf of the alleged fugitive, that he was not within the State of Pennsylvania on the 15th day of July, 1895, on which date the crime charged is alleged to

have been committed, nor on any other day during that month. The authorities on the subject seem to hold that although the date named in the indictment is not material on the trial, but that it is sufficient to sustain a conviction if it is shown that the crime was committed, although on a date different from that alleged, the date is material and must be accurately stated in proceedings for the rendition of persons claimed as fugitives from justice. I therefore felt constrained to revoke the warrant issued by me, and to direct that Dreyfuss be discharged from custody. There was of course no reason whatever to question the entire good faith with which the proceedings were instituted, but under the proofs furnished on the hearing no other disposition of the case than the one made seemed possible.

Very faithfully yours

LEVI P. MORTON

SOLDIERS' MEDALS

LETTER TO SPEAKER THOMAS B. REED

STATE OF NEW YORK

Executive Chamber

Albany, May 4, 1896

HON. THOMAS B. REED, *Speaker of the House of Representatives, Washington, D. C.*

DEAR MR. SPEAKER— I am asked by the representatives of various military associations to call your attention and request your approval of House resolution No. 145, introduced by Mr. Quigg, and

which provides for the carrying into effect of Mr. Stanton's order of June, 1863, granting medals to the soldiers in the militia force of those States which sent troops under special call to repel Lee's invasion of Pennsylvania which culminated at Gettysburgh.

I am not aware of the terms of Mr. Stanton's promise or order, but I am inclined to the belief that the persons who are carrying on the present movement state the facts correctly. It appears to me that there is appropriateness in recognizing the services of the men who thus volunteered so promptly, and I therefore take the liberty of bespeaking your attentive consideration of the matter.

While referring to this subject it is perhaps proper that I should say that if there is fitness in awarding medals to those militia troops, there would also seem to be equal if not greater appropriateness in granting medals to every honorably discharged soldier or sailor who served in the War of the Rebellion. It is true that the militia was specially called upon for this volunteer service in 1863 but it is equally true that they suffered practically no casualties, were never called into action and that the soldiers of the regular volunteer force did all the fighting and marching which the war entailed. It has been the custom of nations to grant medals to their troops in commemoration of their wars; and while I think that in the last few years we have shown in this country too great a tendency to the wearing of decorations of almost all conceivable kinds, it appears to me that the government might with great propriety grant medals to all its surviving soldiers.

You will pardon me for imposing my views upon you upon this subject, but I felt that I could not well respond to the requests which have been made upon me to invoke your influence in this matter without at the same time giving utterance to my views on the whole subject. With kind regards believe me

Very truly yours
LEVI P. MORTON

A QUESTION OF TASTE

THE GOOD GOVERNMENT CLUBS AND THE GREATER
NEW YORK COMMISSION

STATE OF NEW YORK

Executive Chamber

Albany, June 8, 1896

CHARLES STEWART DAVISON, ESQ., *Chairman, Etc.,*
New York City

DEAR SIR— I beg to acknowledge receipt of your letter of June 3d requesting on behalf of the Council of Confederated Good Government Clubs of the city of New York that I transmit to you “the names of such gentlemen as have been recommended and are before you (me) for appointment to the Commission to prepare a draft of a charter for the so-called Greater New York.” You further state that the object of the clubs in making this request is “that they may consider the names of those who have been recommended by other bodies and citizens and consider whether it may be appropriate for them

to indorse any such recommendations, or oppose any of those recommended."

I beg respectfully to suggest to the clubs that as far as I can learn it has never been the custom of the Executive Department to submit such matters to public consideration, and I am unaware of any reason why a departure from that custom should be made in the present instance.

For almost all public appointments a large number of names are submitted, either through personal application of candidates or by the petitions and letters of their friends. In many instances candidates request that in the event of their not being appointed, such failure shall not become a matter of public notoriety, record or concern, because the fact that the Executive does not select all, when there are only a few appointments to be made, does not in all cases, and might not in any case, imply personal unfitness or incapacity of the candidate, but merely that it was simply impossible to give all of them favorable consideration.

For this reason I believe myself justified in withholding the list of candidates for commissions so as to avoid wounding the feelings publicly of the persons who may not be chosen. A further reason why I do not think it necessary to make the list public for the scrutiny of your clubs is that I am charged with the duty and responsibility of making these appointments, and I believe myself bound to accept that duty and responsibility.

Yours respectfully

LEVI P. MORTON

RELIGIOUS TOLERATION

LETTER TO THE MARQUETTE CLUB OF ST. LOUIS

STATE OF NEW YORK

Executive Chamber

Albany, June 8, 1896

JOHN B. DENVER, Esquire,

President, The Marquette Club, St. Louis, Mo.

DEAR SIR — I beg to acknowledge receipt of your telegram of May 31st, requesting an answer to this question: "In the event of your election to the Presidency, will you in the administration of that office make any discrimination against Roman Catholics on account of their religious belief?"

Since the date of that telegram I have received a large number of letters from Roman Catholic bodies in various cities, reiterating this inquiry. For reply I beg respectfully to submit the record of my views on this question as embodied in my letter of acceptance of the nomination for the office of Governor, dated October 10, 1894. I then took occasion to say that under the Constitution of the United States as well as the organic law of this State all citizens are placed on a footing of absolute equality; that I fully recognized this provision in the Supreme law, not only because it imposed an obligation upon all members of the State, but because I am in favor of the fullest freedom in the worship of Almighty God.

I still adhere to the views therein expressed and can only add that if I were charged with the duty of

administering the office of President of the United States, I should endeavor to treat all classes of citizens without discrimination as to their religious belief.

Very truly yours
LEVI P. MORTON

THE STATE WAR RECORDS

LETTER TO SECRETARY OF WAR LAMONT

STATE OF NEW YORK

Executive Chamber

Albany, June 26, 1896

HON. DANIEL S. LAMONT, *War Department, Washington, D. C.*

DEAR SIR—Referring to the recent letter from this department—in which you were advised that your request for the loan of the military records of the State of New York for the revolutionary period to the War Department, so that authentic copies thereof might be made for the use of the Federal government, had been referred to the Board of Regents, who are the trustees of said records—I regret to be compelled to advise you that the Board has declined to accede to my request in your behalf. At its meeting held in the Capitol on June 24th the Board of Regents took action upon the subject. In a letter communicating to me the result the Secretary of the Board says:

“There was every desire to accommodate the

Federal authorities, and I was instructed to place at their disposal every facility, including photographic rooms and if needed special rooms or tables for copyists, but the decision of the regents adversely to the request was unanimous as expressed in the following resolution: 'Resolved, that the regents will gladly extend every possible facility for consultation or copying in the State library, but do not feel authorized to allow rare manuscripts to leave their fire-proof depository even temporarily.' I regret that it seems impossible consistently with the rules of the department to secure even a temporary suspension of the rule covering these unique documents."

I beg to inform you that if it will not then be too late it will give me pleasure to again bring the matter to the attention of the regents at their September meeting. I appreciate fully the desirability, even the necessity, that the Federal government should be in possession of a transcript of these records. Mr. Dewey informs me that he laid before the Board of Regents at length the grounds upon which the request was based, which were substantially that while the War Department had ample funds with which to defray the work of expeditiously copying these records within the District of Columbia, the terms and conditions of that appropriation did not permit it to send a large clerical staff into any State for that purpose. It was also represented to the regents that there was only the remotest possible danger of loss or injury to the records, for the State Historian would have been detailed to take personal charge of them on the train to and from Washington. Should you however decide to accept the offer of the

regents to afford you ample facilities to make the transcripts here at the Capitol, I shall be glad to be advised to that effect.

Very truly yours

LEVI P. MORTON

DISTRIBUTION OF FIREARMS BY THE
GENERAL GOVERNMENT

LETTER TO SECRETARY OF WAR LAMONT

STATE OF NEW YORK

Executive Chamber

Albany, October 16, 1896

Hon. DANIEL S. LAMONT, *Secretary of War, War Department, Washington, D. C.*

DEAR SIR—I shall be under obligations if you will give me such information as is at your disposal in relation to the action thus far taken and the general purpose, or policy, of the general government with respect to the distribution of fire-arms, from the stock now on hand in the federal arsenals, among the various States for the use of their respective military organizations.

There is now under consideration in this State, upon a report of a special commission created to examine and report upon a suitable fire-arm for the National Guard, a proposition looking to the selection of some good modern weapon. I am informed that the federal government has some 240,000 stand

of improved Springfield breech-loading rifles, and that steps have already been taken under the approval of the War Department and through action by Congress, looking to the distribution of these arms among the States. What I mainly desire is some particular advice as to whether my information is in the main correct, and to what extent proceedings have been had in the direction of carrying out this general purpose.

The subject being now under immediate consideration, I shall be greatly obliged if you will give me the desired information at your earliest convenience.

Very respectfully

LEVI P. MORTON

THE SHIPPING SEASON AT BANES, CUBA

LETTER TO SECRETARY OLNEY

STATE OF NEW YORK

Executive Chamber

Albany, June 26, 1896

Hon. RICHARD OLNEY, *Department of State, Washington, D. C.*

DEAR SIR — I am informed that the shipping firm of Dumois & Company of New York city is about to submit, through the Minister of the Kingdom of Spain at Washington, to the Captain-General of the Island of Cuba, a petition asking for an extension of the shipping season at the port of Banes in said island to about August 15th next. The firm is offi-

cially informed that by a recent edict the Captain-General has prohibited the loading of vessels from that and other banana ports after July first. It is stated that this order if enforced will entail a loss of \$500,000 upon this firm, and will result in throwing some two hundred working men out of employment.

I beg leave to transmit a copy of the correspondence which has reached me upon this subject, with a view to your submitting it to his Excellency the Spanish minister, if such course commends itself to your approval.

I have the honor to remain with great respect

Very truly yours

LEVI P. MORTON

LETTER TO CONGRESSMAN LOW

STATE OF NEW YORK

Executive Chamber

Albany, June 26, 1896

Hon. PHILIP B. LOW, M. C., 307 *Lenox Avenue, New York City*

MY DEAR CONGRESSMAN — I am in receipt of your letter requesting me to communicate with the Spanish Minister at Washington in behalf of Messrs. H. Du-mois & Company, and have noted its contents. After careful consideration of the subject I am constrained to believe that I could not properly, as Governor of the State of New York, communicate direct with the Spanish Minister. I have however ad-

dressed a letter upon the subject, enclosing your communication, to the Honorable the Secretary of State at Washington, and suggesting that if it meets with his approval he might transmit it to the Minister of Spain.

I trust that this course will meet with your approval.

Very truly yours
LEVI P. MORTON

POOL-SELLING, BOOK-MAKING AND
PRIZE FIGHTING IN QUEENS COUNTY

LETTERS TO COUNTY OFFICIALS

STATE OF NEW YORK

Executive Chamber

Albany, July 7, 1896

HENRY DOHT, Esq., *Sheriff of Queens County, Long
Island City, N. Y.*

DEAR SIR—I have been informed by evidence which is quite satisfactory to me that the crimes of pool-selling and book-making, as prescribed by sections 344 and 351 of the Penal Code, have been extensively perpetrated in your county and particularly in Long Island City during the two months last past.

This is a condition of affairs which should not be tolerated by officers who are charged with the duty of informing against and prosecuting offenders

against the above cited provisions of the Penal Code.

Warrants for the apprehension of such offenders will be placed in your hands to-morrow, as I am advised by persons actively engaged in an effort to suppress such crimes, and I look to you and all other officers charged with a like duty in the premises to do your whole duty in the execution of such processes, in the arrest of persons charged with such crimes and in the securing of gambling paraphernalia incident to the perpetration thereof.

Truly yours

LEVI P. MORTON

Governor

STATE OF NEW YORK

Executive Chamber

May 28, 1896

HENRY DOHT, Esquire, *Sheriff of Queens County,*
Long Island City, N. Y.

DEAR SIR— I am advised by citizens of Queens county that a violation of the law of this State in relation to prize fighting is intended to take place in or near Long Island City and in the county of Queens, and that one Maher and one Slavin are to be the principals in such prize fight. I therefore admonish you that it is your sworn duty to use every means at your command or under your authority to prevent any violation of the law in this regard, and to arrest all parties who participate in, or aid and abet any such unlawful act or acts.

Your duty is clearly defined by the law and you have the power to call upon all peace officers and the National Guard if necessary for requisite aid.

Very respectfully

LEVI P. MORTON

Governor

STATE OF NEW YORK

Executive Chamber

Albany, Nov. 30, 1896

EDWIN NOBLE, Esquire, *District Attorney, Long Island City, N. Y.*

DEAR SIR— I am in receipt of several communications calling attention to violations of law in the conduct of so-called prize-fights in the town of Maspeth, Queens county, and also to the existence of numerous pool-rooms and gambling houses which are conducted openly in the town of Newtown, county of Queens. It is proper therefore that I should call your attention to these subjects and require your prompt official action toward the suppression of these violations of law.

Very respectfully

LEVI P. MORTON

Governor

STATE OF NEW YORK

Executive Chamber

Albany, November 30, 1896

HENRY DOHT, ESQ., *Sheriff of Queens County, Long Island City, N. Y.*

DEAR SIR— I am in receipt of several communi-

cations calling attention to violations of law in the conduct of so-called prize-fights in the town of Maspeth, Queens county, and also to the existence of numerous pool-rooms and gambling houses which are conducted openly in the town of Newtown, county of Queens. It is proper therefore that I should call your attention to these subjects and require your prompt official action toward the suppression of these violations of law.

Very respectfully

LEVI P. MORTON

Governor

STATE OF NEW YORK

Executive Chamber

Albany, December 22, 1896

TO HENRY DOHT, *Sheriff of Queens county*

SIR— It having been brought to the attention of the Governor, and a written complaint having been filed at the Executive Chamber to the effect that a violation of law is intended or is likely to be committed in Long Island City, in the county of Queens, on the night of December 23, 1896, to wit: That certain persons known as Kid Lavigne and Charley McKeever are to engage in a prize fight in violation of the provisions of chapter 301, Laws of 1896; therefore

I am directed by the Governor to call your attention to the fact that such intended pugilistic encounter is announced and is a matter of public notoriety, and to further advise you that as Sheriff of said county of Queens you are expected and required to

take all necessary measures, and to employ such force as may be necessary, to prevent any violation of law in such pugilistic exhibition, and to arrest all persons who may engage in or aid and abet such violation of law.

Very respectfully

ASHLEY W. COLE

Private Secretary

LETTERS OF ACKNOWLEDGMENT, RE-
GRET, ETC.

TO THE SHAKESPEAREAN SOCIETY

STATE OF NEW YORK

Executive Chamber

Albany, April 10, 1896

WALTER S. LOGAN, Esq., *Chairman,*

No. 32 Nassau street, New York City

DEAR SIR— I am in receipt of the invitation so courteously extended by the Shakespeare Society of New York to be present at the complimentary dinner which has been tendered to Mr. Augustin Daly in recognition of his services to the public in the presentation of Shakespearean comedy during the many years through which he has been engaged as a theatrical manager. I recognize fully the appropriateness of this tribute in view of the consistent labor of your guest of honor in "holding the mirror up to nature."

The pressure of my public duties is so great how-

ever that I am precluded from joining the distinguished company which is to be assembled at your table.

Thanking you for the courtesy extended to me by the society and with the hope that the occasion will be both instructive and enjoyable, believe me

Very truly yours

LEVI P. MORTON

TO THE HARLEM REPUBLICAN CLUB

STATE OF NEW YORK

Executive Chamber

Albany, April 15, 1896

LINCOLN A. STUART, Esq., *President, etc.*,

No. 4 Park Place, New York City

DEAR SIR — I am in receipt of your letter of April 14th extending to me the invitation of the Harlem Republican Club to be present at its annual dinner in commemoration of the birth of General Ulysses S. Grant, to be held on Monday evening, April 27th next. I beg to express to the Club my thanks for the courtesy thus extended to me and to say that the pressure of my public and personal engagements is so great that I am compelled to decline. I trust however that the occasion will prove an enjoyable one to all who have the good fortune to be present.

Very respectfully

LEVI P. MORTON

TO THE SIXTY-NINTH REGIMENT VETERAN CORPS

STATE OF NEW YORK

Executive Chamber

Albany, April 16, 1896

Colonel JAMES QUINLAN, *New York City*

DEAR SIR— I am in receipt of your invitation on behalf of the Veteran Corps of the Sixty-ninth Regiment to attend the banquet to be held on April 23rd in commemoration of the departure of that distinguished Regiment to the War for the preservation of the Union.

I need scarcely say that it would give me much pleasure to be present with the survivors of that famous organization and to partake with them in the celebration of the historic event which they are about to celebrate. The pressure of public duties however is so great at this time that it is not possible for me to absent myself from the Capitol. Please convey to the veterans my thanks for their great courtesy, and let me add the hope that they may assemble for years to come to cherish and recall the memories of their service in behalf of the Nation.

Very truly yours

LEVI P. MORTON

TO THE BUFFALO REAL ESTATE EXCHANGE

STATE OF NEW YORK

Executive Chamber

Albany, April 17, 1896

SPENCER S. KINGSLEY, Esq., *President, Buffalo, N. Y.*

DEAR SIR — I am in receipt of your cordial letter, supplemented by telegrams from Mayor Jewett and others, inviting me attend the dinner to be given at the opening of the New Buffalo Real Estate Exchange on April 24th.

It would give me great pleasure to be present on such a notable occasion. My time however is so fully occupied and the pressure of official duties is so heavy — especially as the end of the Legislative session approaches — that I find it practically impossible to leave Albany, however much I may desire to do so.

I much regret that I am thus prevented from availing myself of your kind hospitality. It would be especially interesting to me to visit your attractive city and to prove by my presence the interest which I feel in your thriving industries and the pleasure I have in your well-deserved success.

I thank the Buffalo Real Estate Exchange for the courtesy it has done me and offer to its members my hearty good wishes for future prosperity.

Very truly yours

LEVI P. MORTON

TO THE GRANT BANQUET ASSOCIATION

STATE OF NEW YORK
Executive Chamber

Albany, April 17, 1896

General GEORGE M. DODGE, *Chairman, New York
City*

DEAR SIR — I have defer. replying to your kind letter enclosing the invitation of the Grant Banquet Association to attend its Grant Birthday Dinner on April 27th, hoping that I might avail myself of some brief respite in the pressure of official labors and be present. I see clearly however that such an opportunity can not come to me and am therefore reluctantly compelled to decline.

I do this with much regret, as it would give me especial pleasure to join with you in celebrating the birthday of the illustrious citizen, soldier and patriot for whom your association is named. Please express my regrets to those — more fortunate than I — who are present, and thank the members of the Grant Banquet Association for this kind expression of their good will.

I am very truly yours

LEVI P. MORTON

TO THE UNION LEAGUE OF BROOKLYN

STATE OF NEW YORK

Executive Chamber

Albany, April 17, 1896.

To Gen. S. M. WOODFORD, *Brooklyn, N. Y.*

MY DEAR GENERAL WOODFORD — I am in receipt of your kind invitation, supplementing that of the Union League of Brooklyn, in which you ask me to be present at the unveiling of the Grant statue on April 25th.

Believe me, I should greatly like to avail myself of this opportunity to show by my presence the respect and loyalty which I feel toward one of the world's truly "great men." I am however so engrossed with my official labors, just now as the session closes, that I am forced to acknowledge to you as I have to myself, that any thought of attending the ceremonies you name is for me out of the question.

I regret that I am obliged to decline this invitation, and I trust that you will express my feelings informally to the Union League club.

With best wishes

I am very truly yours

LEVI P. MORTON

TO THE YOUNG MEN'S REPUBLICAN LEAGUE

STATE OF NEW YORK

Executive Chamber

Albany, April 17, 1896

P. E. HAYDEN, Esq., *Secretary, New York City*

DEAR SIR—A few days ago I received the kind invitation of the Young Men's Republican League to its third annual banquet on the evening of April 27th.

I have waited until now in the hope that the pressure of my official duties might relax sufficiently to permit me to be present. So engrossing however are my labors, that I find I shall be obliged to decline the invitation.

I do this with great reluctance as I should have been glad to attend your banquet, not only because of the pleasure it would give me to be present among you, but also that on so appropriate an occasion I too might prove my loyalty to the ever-living memory of that great citizen, soldier and patriot—Ulysses S. Grant.

Pray express my gratitude to your club for its thoughtfulness and convey to its members my sincere good wishes.

I am very truly yours

LEVI P. MORTON

TO THE UNION LEAGUE CLUB OF PHILADELPHIA

STATE OF NEW YORK

Executive Chamber

Albany, April 17, 1896

JOHN RUSSELL YOUNG, Esq., *Chairman, Union League House, Philadelphia, Pa.*

DEAR MR. YOUNG— I have deferred replying to the courteous invitation sent by you on behalf of the Union League Club, in the hope that the pressure of my official engagements might relax sufficiently to permit me to attend your banquet in commemoration of the birth of General Grant.

So occupied am I however— especially in these closing days of the Legislative session— that I find it impracticable to absent myself from the Capitol at this time. I am therefore obliged to decline your kindness.

In doing so I feel I am depriving myself of a great pleasure— that of meeting the members of your club and of joining with you and them in paying tribute to the great American citizen, soldier and patriot, Ulysses S. Grant.

I thank you for your kindness and offer to the members of the Union League Club and to those fortunate enough to be present at the banquet my best wishes.

Very truly yours

LEVI P. MORTON

TO THE N. H. SOCIETY OF SONS OF THE REVOLUTION

STATE OF NEW YORK

Executive Chamber

Albany, April 17, 1896

W. W. BAILEY, Esq., *President, Nassau, N. H.*

DEAR SIR—I am in receipt of your cordial invitation to attend the annual meeting of the New Hampshire Society of the Sons of the American Revolution, to be held at the State House, Concord, on Wednesday, April twenty-second.

I am deeply sensible of the honor done me by your society and I should find great pleasure in meeting the many friends I have in the "Granite State," particularly on so interesting an occasion.

My official duties however, augmented as they are by the presence of the State Legislature, closely occupy my time, and I feel compelled for this reason to forego my personal desires and to decline your invitation. Permit me nevertheless to express my sincere thanks for your courtesy and for the kind thought which prompted it.

Please convey to the New Hampshire Society of the Sons of the American Revolution my warm regards, and to all of those so fortunate as to be present at your annual meeting my best wishes for their enjoyment of so interesting an occasion.

Very truly yours

LEVI P. MORTON

TO THE VETERANS OF THE SEVENTH REGIMENT

STATE OF NEW YORK

Executive Chamber

Albany, April 17, 1896

General J. FRED PIERSON, *Chairman, New York City*

DEAR SIR—I am in receipt of the note from Colonel Lorenzo G. Woodhouse, inviting me on behalf of the veterans of the Seventh regiment to attend their annual banquet on April twentieth.

It would give me great pleasure to be present on this occasion to join with you in celebrating the seventy-second year of the formation of your splendid organization. My official duties however are so confining—especially as the end of the Legislative session draws near—that I find it impracticable to absent myself from Albany. I therefore feel compelled to decline your hospitality.

I do this with much reluctance, and trust that you will express this to those more fortunate than I who find it possible to attend. Permit me to add to these regrets my best wishes for a continuance of the splendid courage—the *esprit du corps*—which has always distinguished the Seventh regiment.

I am very truly yours

LEVI P. MORTON

TO THE PHILADELPHIA COLLEGE OF PHARMACY

STATE OF NEW YORK

Executive Chamber

Albany, April 21, 1896

HOWARD B. FRENCH, Esq., *Chairman, Philadelphia, Pa.*

DEAR SIR — I am in receipt of your courteous invitation on behalf of the Committee appointed by the Board of Trustees and the Alumni Association, requesting me to attend the banquet to be given on April 22nd to celebrate the seventy-fifth anniversary of the founding of the Philadelphia College of Pharmacy.

It would give me great pleasure to be present, especially on such a notable occasion. My official duties, added to one or two engagements already made, so closely occupy my time that I find it impracticable to accept.

Pray express my thanks to the Board of Trustees as well as to the Alumni Association, and offer to them and to all connected with the Philadelphia College of Pharmacy my best wishes for the future success of an institution whose past has been of such value and benefit to humanity.

I am very truly yours

LEVI P. MORTON

TO PRESIDENT LOW OF COLUMBIA UNIVERSITY

STATE OF NEW YORK

Executive Chamber

Albany, April 29, 1896

Hon. SETH LOW, LL.D., *President of Columbia University in the City of New York*

DEAR PRESIDENT LOW — I have deferred my reply to the courteous invitation extended to me by yourself and the Trustees of Columbia College to attend the dedication of the new college site on Saturday next, in the hope that my official duties would afford an opportunity for me to be present on that interesting occasion. I now find myself compelled and regretfully to say that the closing work of the Legislature makes it impossible for me to absent myself from the Capitol during the present week.

Please accept on behalf of the University the assurance of my best wishes for the continued success of that historical institution, and let me add the hope that in its new home it will be if possible the source of still greater benefits to the country in the second century of its existence than it has already manifested so abundantly during the past hundred years and more.

Very truly yours

LEVI P. MORTON

TO THE NATIONAL ELECTRIC ASSOCIATION

STATE OF NEW YORK

Executive Chamber

Albany, April 30, 1896

FRANK W. HAWLEY, Esq., *Chairman Committee of
Invitations, etc., New York City*

DEAR SIR—It gives me pleasure to accept your kind invitation to be present at the opening of the National Electric Association's Exposition on the evening of May 4th next and to release the electric current generated by power taken from Niagara's grand cataract.

As you are doubtless aware I am just now under a great pressure of official duties, but the cause of electrical science involves such manifold and important interests in the scheme of our civilization and material progress that I feel honored and pleased by your request that I shall perform this conspicuous and interesting service. Mankind has witnessed such marvellous discoveries and improvements in electricity, even within the past five years, that our minds are led to wonder whether the world is undergoing a process of re-vitalization through this subtle energy drawn from the breast of nature.

Please convey to the Association my thanks for their courtesy extended to me and believe me

Very truly yours

LEVI P. MORTON

TO GOVERNOR TURNEY OF TENNESSEE

STATE OF NEW YORK

Executive Chamber

Albany, May 4, 1896

HIS EXCELLENCY PETER TURNEY, *Executive Chamber,
Nashville, Tenn.*

DEAR SIR— I beg to acknowledge receipt of your courteous invitation, tendered to myself and my Military Staff, to be present on June first next at the opening ceremonies for the commemoration of the one hundredth anniversary of the statehood of Tennessee. It would give me pleasure to meet yourself and the many distinguished persons who will be assembled at the Capital of your State on that interesting occasion, but I am so pressed with duties largely flowing from the work of the Legislative session just closed, that I am precluded from accepting your great courtesy. Please accept for yourself and the people of Tennessee the cordial congratulations of the Government and People of the State of New York on the completion of the first century of the existence of your historical commonwealth. Let me add the hope that the centennial fair which is to be held by your citizens as a part of the celebration will prove a great success, and that it will add to the industrial and commercial importance and benefit of your State.

I beg also to advise you that on the last day of its session our State Legislature adopted unanimously a resolution providing for the recognition by the Empire State of the important event which you are about

to celebrate. A copy of that resolution is herewith enclosed for your information.

Very truly yours

LEVI P. MORTON

TO THE AUTHORS' GUILD OF NEW YORK

STATE OF NEW YORK

Executive Chamber

Albany, May 7, 1896

THOMAS B. CONNERY, Esq., 571 *Park Avenue, New York City*

DEAR SIR — I am in receipt of your letter of May 5th, in which under instruction of the committee of arrangements you invite me to be present at the formal opening of the new home of the American Authors' Guild in New York city on the evening of Wednesday, May 13th.

Please convey to the committee and the members of the Guild my thanks for the courtesy which prompts their action, and my regret that the great pressure of public business imposed upon me by the work of the recent session of the Legislature precludes the possibility of my being present.

I may be permitted briefly to express my gratification at learning that these associated literary workers who are ordinarily a poorly compensated class of people are so successful as to be able to establish for themselves a home in the great metropolis.

Very truly yours

LEVI P. MORTON

TO THE KAUAI KODAK KLUB

STATE OF NEW YORK

Executive Chamber

Albany, May 22, 1896

E. S. GOODHUE, Esq., M. D., *Kaloe, Kauai, Hawaiian Islands*

DEAR SIR — I am in receipt of your letter of May 8th advising me that I have been elected an honorary member of the Kauai Kodak Klub. Please convey to the members of your club my thanks for the honor conferred upon me and for the kindly sentiments which impelled their action. I have no doubt that the young Republic of Hawaii will work out her destiny under the impulse of the enlightened and progressive forces which have of recent years been so actively at work in her behalf and which have attracted so much attention throughout the world.

Very truly yours

LEVI P. MORTON

TO THE BROOKLYN SUNDAY SCHOOL UNION

STATE OF NEW YORK

Executive Chamber

Albany, May 26, 1896

ALFRED TILLY, Esq., *Chief Marshal, Brooklyn, N. Y.*

DEAR SIR — Replying to your communication of May 22d, I beg to say that it will give me pleasure

to attend the Sixty-seventh Anniversary Parade of the Brooklyn Sunday School Union on June 5th next in compliance with your invitation of February last. I have deferred a decisive answer until this late day for the reason that I was well aware that official duties would press closely upon me at or about the time of the parade. I have heard much in commendation of the very beautiful display which the Brooklyn Sunday School Union makes annually upon these occasions, and I look forward to it with much interest. I hope for desirable weather and a large and representative assemblage of the children. It is my intention to be at my hotel, No. 10 West Forty-third street, New York city, on the morning of that day, subject to the wishes of the officials having the parade in charge.

Very truly yours

LEVI P. MORTON

TO THE NEW HAMPSHIRE LEGISLATIVE REUNION
ASSOCIATION

STATE OF NEW YORK

Executive Chamber

Albany, June 22, 1896

CONVERSE J. SMITH, Esq., *Chairman, P. O. Box 1651,
Boston, Mass.*

DEAR SIR — I am in receipt of your letter of June 13th, transmitting the invitation of the New Hampshire Legislative Reunion Association to attend its first reunion at Concord, N. H., on June 30th and July 1st next.

Please convey to the Association my cordial thanks for the courtesy which prompted its action, in requesting me to be present and participate in the exercises which will mark this interesting occasion.

I am, however, most reluctantly compelled to forego the pleasure which would be mine could I be present and mingle with the sons of the Old Granite State—a commonwealth which is associated with so many delightful memories of my earlier years. But I am still closely pressed with public duties, in addition to which a number of personal and business engagements intervene, and I find that it will not be possible for me to be present. Let me express the hope that the reunion will be a success, and that nothing may occur to mar the enjoyment of all who have the good fortune to be present.

Very truly yours

LEVI P. MORTON

TO THE CUBAN AMERICAN CARNIVAL SECRETARY

STATE OF NEW YORK

Executive Chamber

Albany, June 25, 1896

ALLEN S. WILLIAMS, Esq., *Secretary Cuban-American Carnival, Newark, N. J.*

DEAR SIR—Governor Morton is in receipt of your letter of June 20th conveying the invitation of the committee of citizens of New Jersey in charge of the Cuban-American Carnival to the Governor and his staff to attend the carnival on July 8th, and

also requesting Executive permission for troops of the National Guard of the State of New York to leave this State, bearing arms, for the purpose of taking part in the military parade and sham battle at the carnival on July 4th.

I am directed by the Governor to convey to the committee his thanks for the courtesy implied by the invitation to himself and staff to be present on July 8th, and to say that he regrets his inability to accept this invitation. He sympathizes warmly however with the object of the carnival, which as you say is in this instance intended for the sole benefit of Red Cross work in the alleviation of the sufferings caused by war.

With respect to the request that troops be permitted to leave this State, bearing arms, the Governor directs me to say that the first requisite of such a movement is that the State of New Jersey shall grant permission for troops of another State to enter the State of New Jersey. The next requirement would be that application should be made to general headquarters by such troops for permission to leave the jurisdiction of this State, bearing arms. He is not advised that either of such applications has yet been made, and until such conditions are made manifest to the Governor, he could not with propriety act upon the subject.

Very respectfully

ASHLEY W. COLE

Private Secretary

TO HON. DON M. DICKINSON, DETROIT

STATE OF NEW YORK

Executive Chamber

Albany, July 1, 1896

Hon. DON M. DICKINSON, *Chairman, Detroit, Mich.*

DEAR SIR— I beg to acknowledge receipt of the invitation extended to me through you by the citizens of Detroit to attend the Centennial Anniversary of the closing act of the War of American Independence in the evacuation of Detroit and the northwest territory by the British forces.

Please convey to the committee and your fellow townsmen my thanks for the courtesy of this invitation and my regret that engagements already made preclude my being present to take part in this patriotic and historic commemoration.

Very truly yours

LEVI P. MORTON

TO THE COMMITTEE DEDICATING THE STATUE OF
MAJOR-GENERAL GOUVERNEUR KEMBLE WARREN

STATE OF NEW YORK

Executive Chamber

Albany, July 1, 1896

General ROBERT AVERY, *Chairman, 30 Broad street,
New York City*

DEAR SIR— I am in receipt of the invitation to attend on July fourth, the ceremony of unveiling and

dedicating the statue of Major-General Gouverneur Kemble Warren, the heroic commander of the Fifth Army Corps, which has been erected by G. K. Warren Post number 286 in Prospect Park Plaza, Brooklyn.

The selection of the Nation's anniversary day for this patriotic ceremony is eminently appropriate, and it would give me pleasure to be present, but I am precluded from accepting your invitation by engagements made some weeks ago.

Please convey to the committee on ceremonies my thanks for their thoughtful attention.

Very truly yours

LEVI P. MORTON

TO THE COMMITTEE DEDICATING THE CLARKSON
MEMORIAL SCHOOL OF TECHNOLOGY

STATE OF NEW YORK

Paul Smith's, N. Y., August 24, 1896

JOHN G. McINTYRE, *Potsdam, N. Y.*

DEAR SIR— I beg to acknowledge the receipt of your kind invitation of August 18th, presented to me by the hand of the Honorable M. V. B. Ives, to be present and make an address at the dedication of the buildings of the Thomas S. Clarkson Memorial School of Technology at Potsdam on September 1st. It would give me pleasure to be present upon an occasion so fraught with interest to the educational affairs of our State, and I have given consideration to the matter of acceptance in connection

with another invitation of near the same date. Since the receipt of your letter however, I am invited to be present in New York at the reception of the Chinese Ambassador, who is to be received as a guest of the Nation in the Metropolis. I therefore feel it incumbent upon me as the Executive of our State, to be present officially upon so important occasion, and am reluctantly compelled to forego the pleasure of being with you.

Please convey to the officers and trustees, as well as to the generous ladies who have established and endowed this School of Technology, my sincere wishes for the success of the Institution.

Very truly yours

L. P. MORTON

TO PHILIP M. CRAPO, BURLINGTON, IOWA

STATE OF NEW YORK

Executive Chamber

Albany, September 22, 1896

PHILIP M. CRAPO, Esq., *President, Burlington, Iowa*

DEAR SIR— I am in receipt of your kind invitation to attend the Semi-Centennial Celebration of the admission in the Union of the State of Iowa, which is to be commemorated in the first week of October. Please accept my thanks for your courteous remembrance.

It would give me pleasure to meet the Governor of your State and the many distinguished officials and citizens who will be present upon that interesting occasion, but the pressure of official and private

business is such as to preclude the possibility of my attendance.

Permit me to express the hope that the second half century of Iowa's existence and progress as a State may out-rival even her great achievements won during the last half century.

Very truly yours

LEVI P. MORTON

TO MAGNUS L. ROBINSON, CHAIRMAN, ALEXAN-
DRIA, VA.

STATE OF NEW YORK
Executive Chamber

Albany, Sept. 21, 1896

MAGNUS L. ROBINSON, Esq., *Chairman, Alexan-
dria, Va.*

DEAR SIR— I am in receipt of your invitation of September 16th to attend the celebration at Alexandria of the 33d Anniversary of the National Emancipation Proclamation. Please accept my thanks for your courtesy, though I am regretfully compelled to decline by reason of a previous engagement.

The signing of that decree by President Lincoln was in fact the *Magna Charta* of the African race, not in America alone but practically throughout the world. At that time African slavery existed on our own continent, only in the United States, Brazil and the Spanish Antilles. The emancipation of our slaves was followed within a few years by the emancipation of the Russian serfs by Alexander I, and

the liberation of the bondmen, who had been held almost from the time of the discovery in Brazil and the remaining possessions of Spain on this continent ; and I believe that I am not extravagant in assuming that Lincoln's great act of manumission is to-day exercising at least a strong moral influence toward the extinction of the Arab slave trade in Africa by the powers which have lately established themselves in that newly opened continent.

Let me express the hope that the progress of liberation and the enlightenment of your widely persecuted race may go hand in hand, and that the advancement of mankind shall reach that elevated stage where oppression will forever cease and justice reign supreme throughout the world.

Very truly yours

LEVI P. MORTON

TO THE RIGHT REVEREND DOCTOR WALTERS.

STATE OF NEW YORK

Executive Chamber

Albany, Sept. 25, 1896

Right Rev. A. WALTERS, D. D., *Chairman, New York City*

DEAR SIR— I am in receipt of your letter of September 22d, invitating me to be present at the Centennial Jubilee of the African Methodist Episcopal Zion Church in New York city on October 1st next and to preside at one of the sessions.

Please accept my thanks for the courtesy of this

invitation. I am however reluctantly compelled to decline in consequence of official duties and engagements already made which require my attendance at the Capitol on or about that date.

I beg to express the hope however that the Jubilee celebration will be a successful demonstration, and full of beneficial results, not merely to the African Church in America, but to the cause of religion generally.

Very truly yours

LEVI P. MORTON

TO THE CHAMBER OF COMMERCE OF NEW YORK

STATE OF NEW YORK

Executive Chamber

Albany, Nov. 4, 1896

GENTLEMEN — I beg to acknowledge receipt of your invitation to attend the One Hundred and Twenty-eighth Annual Dinner of the Chamber of Commerce of the State of New York, and to tender my thanks for the courtesy extended.

The pressure of business engagements, which have been in some measure increased by the approaching close of my term of office as Governor, is such that I am regretfully compelled to forego the pleasure of being present.

I cannot, however, forego the opportunity to express to the Chamber and its guests, representing as they do, the commercial and financial interests of the Empire City and State, my great gratification

that the American people have so signally and unmistakably made public declaration, and set the seal of their approval upon the question of maintaining inviolate, the national honor and the monetary credit of our people. The result was an affirmation of our purpose, which will be welcomed and applauded by the civilized world, and guarantees the stability and integrity of the Republic among the Nations.

Very truly yours

LEVI P. MORTON

To Messrs. H. W. CANNON,
J. EDWARD SIMMONS,
C. SCHURZ,
CORNELIUS N. BLISS,
Committee of Arrangements.

STATE OF NEW YORK
Executive Chamber
Albany, Nov. 4, 1896

Hon. HENRY E. HOWLAND, *Governor etc., New York City*

DEAR SIR — Please convey to the members of the Society of Mayflower Descendants, my thanks for their kind invitation to attend the Society's annual dinner on November twenty-third, and my regrets that a pressure of official duties deprives me of the pleasure of accepting the invitation so cordially extended.

Let me hope however, that the Children of the Pilgrims may continue to emulate all the virtues and

fortitude of their great ancestors, and may find in these yearly reunions, a pleasant way of perpetuating the memory of their lives and work.

Very truly yours

LEVI P. MORTON

TO MAJOR WILLIAM MCKINLEY

STATE OF NEW YORK

Executive Chamber

November 11, 1896

Hon. WILLIAM MCKINLEY, *Canton, O.*

DEAR MAJOR MCKINLEY—The State of New York proposes, under authority of an act of the Legislature passed at its last session, to commemorate by appropriate ceremonies the one hundredth anniversary, on January third next, of the establishment of the city of Albany as the capital and legislative seat of the State. A commission has been created, composed of the Mayor of Albany, Colonel William Jay, William Bayard Van Rensselaer, State Senator Myer Nussbaum and Hon. James M. E. O'Grady, leader of the Republican majority in the State Assembly, to prepare and carry out a programme for the ceremonies. The affair will be conducted on a high plane.

Remembering that you were once a student in the Albany Law School and believing that you, doubtless, entertain some pleasant memories of the old Capitol, we should be rejoiced if you could favor us with your presence and perhaps deliver the oration

for the occasion. A committee from the Commission will present the wishes of New Yorkers in this regard, together with this letter and I sincerely hope you may find it convenient and agreeable to accept their invitation. It will give me pleasure to prepare and forward to you a synopsis of the historical data from which you might easily prepare your address.

Renewing my congratulations upon your triumphant success in the recent election, and with kindest regards to yourself and Mrs. McKinley in which Mrs. Morton would most heartily join if she knew of my writing to you, believe me

Very truly yours

LEVI P. MORTON

TO THE HERKIMER MONUMENT COMMISSION

STATE OF NEW YORK

Executive Chamber

Albany November 9, 1896

Col. JOHN W. VROOMAN, *Chairman Herkimer Monument Commission*

DEAR SIR — I am in receipt of an invitation to attend the dedication on November twelfth of the monument erected to commemorate the life and heroic deeds of Nicholas Herkimer, and beg to thank the Herkimer Monument Commission and the Herkimer County Historical Society for their courtesy in asking me to be present. The pressure of official duty is however quite urgent at this time, and I regret that I will be unable to be present at the ceremonies.

It gave me gratification however to approve the two Legislative acts of 1895-'96, which led to the erection of this memorial shaft in honor of the rustic backwoods soldier whose skill and bravery probably saved the State of New York to the patriot cause, and to appoint the members of the Commission; and feeling that the State may appropriately and should be represented on the occasion, it will give me pleasure to direct my Private Secretary to attend the ceremony as my official and personal representative.

Very truly yours

LEVI P. MORTON

STATEMENT
OF
PARDONS, REPRIEVES AND COM-
MUTATIONS OF SENTENCE
GRANTED BY
LEVI P. MORTON, Governor
DURING THE YEAR 1896

PARDONS

January 8, 1896. John J. Arnold. Sentenced February 21, 1894; county, Niagara; crime, grand larceny, second degree; term, eleven years; prison, Auburn.

Arnold misappropriated funds coming into his hands as treasurer of Niagara county, and at the end of his official term was largely in default. He was in jail several months before his conviction. He pleaded guilty, received a severe sentence of which he has served about two years, and a very earnest appeal is now made for his pardon by a large number of the leading citizens of the county. Eighteen of the twenty-two supervisors and nearly all the county officers are strongly in favor of it. The petition is signed by the three bondsmen who paid to the county all that was paid on account of his defalcation. Senator Pound and Assemblyman Clark, residents of the county, have recommended it. Judge Lambert who imposed the sentence regards the case as a proper one for clemency. The editors and proprietors of all the newspapers published in the county cordially endorse it. Indeed but one sentiment prevails throughout the county,

all being heartily in favor of the clemency asked. Before his conviction Arnold surrendered to his bondsmen all the property of which he was possessed, and it was afterwards transferred by them to the county. His family have been left penniless and without support and one of his children has died recently under circumstances which have excited the deepest sympathy. Although the term he has now served is but a comparatively brief portion of that imposed by the court, his punishment, in view of all the facts, has been quite severe, and it is believed that no public interest will suffer if the application be granted.

January 8, 1896. John A. Tonner. Sentenced June 20, 1895; county, New York; crime, sodomy; term, two years and six months; prison, New York Penitentiary.

Granted on the recommendation of Richard C. McCormick, Henry N. Cary, George F. Spinney, Thomas W. Knox, W. W. Somerville, General James R. O'Beirne, Edward A. Quintard and other well known citizens of New York, many of whom have known the prisoner intimately for a number of years and have always regarded him as a man of the highest character. Clemency is also recommended by Judge Cowing, who imposed the sentence, and by District Attorney Fellows.

January 18, 1896. Barry Mines. Sentenced March 26, 1895; county, New York; crime, grand larceny, first degree; term, three years; prison, New York Penitentiary.

The prisoner has been sufficiently punished for all purposes of justice and is released on the recommendation of the complainant, of Hon. Stewart L. Woodford and others.

February 6, 1896. Joseph Reilly. Sentenced November 29, 1895; county, Queens; crime, petit larceny; term, four months; prison, Queens County Jail.

The evidence upon which Reilly was convicted was very meagre and affidavits filed with the petition establish his innocence quite conclusively. The magistrate before whom he was tried recommends that his application for clemency be granted.

February 14, 1896. Seth Rose. Sentenced December 5, 1895; county, Genesee; crime, public intoxication; term, three months; prison, Erie County Penitentiary.

County Judge North, the district attorney, and the police justice of Batavia ask that Rose be pardoned, so that he may attend the funeral of his brother who has been killed in a railroad accident.

February 19, 1896. Michael F. Martin. Sentenced July 19, 1895; county, Kings; crime, perjury; term, one year; prison, Kings County Penitentiary.

Martin signed a bond in the sum of three hundred

dollars bailing a friend who had been arrested for a misdemeanor, and made the usual affidavit. This affidavit was false. Martin was under the influence of liquor and probably did not fully realize what he he was doing. This was his first and only offence, his previous good character being abundantly established. His pardon is recommended by the district attorney, by the Hon. Seth Low and by many leading business men of Brooklyn and New York.

February 19, 1896. John Raymer. Sentenced October 17, 1895; county, Oneida; crime, petit larceny; term, six months; prison, Onondaga County Penitentiary.

Pardon granted on the petition of the committing magistrate, the county judge, the surrogate, the sheriff, and other county officers. Considering the prisoner's previous good character the punishment imposed was more severe than the offence demanded.

March 3, 1896. William J. Walsh. Sentenced April 7, 1893; county, Kings; crime, assault, second degree; term, four years ten months; commuted December 20, 1895, to four years, subject to commutation; prison, Sing Sing.

Walsh cannot live until the expiration of his term in April, and his wife asks for his release.

March 9, 1896. Myer Katz. Sentenced October 3, 1895; county, New York; crime, assault, second degree; term, one year; prison, New York Penitentiary.

Recommended by Rev. Gustav Gotthiel, Isaac N. Seligman, Jacob H. Schiff and others. It appears that Katz was protecting his wife who was in a delicate condition, and it was by no means clear from the evidence that he did more than was necessary for her protection. She died a few days ago leaving an infant which is now being cared for by charitable ladies. The district attorney thinks the case a proper one for clemency.

March 16, 1896. John Kane. Sentenced March 27, 1895; county, Monroe; crime, grand larceny, second degree; term, one year and six months; prison, Monroe County Penitentiary.

The physician certifies that Kane is seriously ill and cannot recover. He has served all but about three months of his term.

March 21, 1896. Sherman Miller. Sentenced February 22, 1893; county, Delaware; crime, robbery, second degree; term, five years; prison, Auburn.

This was Miller's first offence. His term would expire in September, but it is not probable that he will live until then, being very ill with consumption. His parents who live in Kansas desire to take him home, and the warden and the physician ask that his application for clemency be granted.

March 25, 1896. Frank Ward. Sentenced September 26, 1894; county, Erie; crime, grand larceny, second degree; term, four years; prison, Auburn.

Recommended by the judge, the district attorney and the chief of police of Buffalo; it being proved that at the time alleged in the indictment Ward was in the State of Missouri and hence could not have committed the larceny.

May 5, 1896. William P. Wentworth, Sentenced October 18, 1894; county, New York; crime, forgery, third degree; term, two years and six months; prison, Sing Sing.

Wentworth had always borne an excellent character and it is claimed that the evidence upon which he was convicted was altogether insufficient. It was charged that in order to conceal a larceny of moneys in his custody he made a false entry in the books of the hotel of which he was cashier. It is argued with much force that the proof wholly failed to show the alleged larceny, that the entry referred to was not false, and that even if it were so and a larceny had been proved, the entry could not have been made with a view of concealing the fact as it could not possibly have effected that purpose. But without passing upon these questions, Wentworth's punishment under all the circumstances is deemed sufficient. He was confined in the city prison for three months before his trial, and with the usual deduction has now served all but five months of his sentence. Clem-

ency is recommended by the district attorney who procured the conviction, by Hon. Charles W. Dayton and other citizens of New York.

May 22, 1896. Frank Lytle. Sentenced November 14, 1892; county, Monroe; crime, grand larceny, second degree; term, five years; prison, Auburn.

Lytle's term would expire on June 14th, but the physician says it is very doubtful if he can live until then. His parents are very anxious to take him home.

June 9, 1896. Sebastian Dumser. Sentenced November 8, 1895; county, New York; crime, assault, third degree; term, eleven months; prison, New York Penitentiary.

The sentence was too severe. The prisoner has been sufficiently punished and his wife and children are in need of his support.

June 9, 1896. Elmer Padgett. Sentenced December 12, 1895; county, Schenectady; crime, manslaughter, second degree; term one year; prison, Schenectady County Jail.

Granted on the recommendation of Judge Kellogg who presided at the trial and who writes: "Padgett, in my judgment, should have been acquitted by the jury. The evidence clearly showed that he shot the man to save the life of his employer. His employer was seeking to eject a disorderly per-

son from his house. The man who was shot rushed in, made one stroke with a knife at the head of the employer and had his hand raised to make another, when Padgett shot him. Any less severe and vigorous means could not have been used to stay the killing of the employer. * * * The jury were reluctant, as they are in all cases, to acquit, though the accused acted clearly within the law which defines justifiable homicide. They therefore found for manslaughter second degree, though not a fact in the case justified such a finding."

June 9, 1896. Wallace W. Persons. Sentenced April 10, 1896; county, Chautauqua; crime, assault, third degree; term, three months; prison, Chautauqua County Jail.

Recommended by the committing magistrate and by other residents of Cherry Creek, the prisoner's home. His wife has died and a very earnest appeal is made for his release. He has served two-thirds of the sentence.

July 1, 1896. Nicholas P. Ryder. Convicted May 1, 1890, sentence suspended; county, New York; crime, attempt to commit grand larceny, second degree.

Recommended by the district attorney. The evidence upon which Ryder was convicted was quite weak. He has always borne a good character, and as more than six years have elapsed since the trial there is no probability that sentence will ever be pro-

nounced ; and no good reason exists for keeping him longer subject to the disabilities arising from the conviction.

August 26, 1896. Maria Rubino. Sentenced December 1, 1894 ; county, New York ; crime, assault, second degree ; term, three years and three months ; commuted July 14, 1896, to two years and three months, subject to commutation ; prison, State Prison for Women.

Under the commutation heretofore granted the prisoner's term would expire in October ; but out of consideration for her children it has been determined to release her at once. The children are all quite young ; during her imprisonment they have been cared for by strangers, and one of them is very ill with but little prospect of recovery.

September 22, 1896. William N. McCredie, Sentenced February 27, 1893 ; county, Erie ; crime, forgery, third degree ; term, five years ; prison, Erie County Penitentiary.

McCredie, who was the bookkeeper of a savings bank, was convicted of forgery for making false entries in the books for the purpose of concealing his embezzlement of the bank's moneys. The sentence was the severest allowed by the statute. A very strong appeal for clemency was made in his behalf about a year ago, the petition being signed by many leading citizens of Buffalo ; among others, by Edgar B. Jewett, Daniel N. Lockwood, Charles F. Bishop,

Rowland B. Mahany, Erastus C. Knight, C. W. Hammond, Norman E. Mack, C. W. Cushman. The district attorney also favored the application. But it was not deemed wise at that time to interfere with the sentence. Only one week now remains to be served, the prisoner having earned full commutation for good behavior, and his friends ask very earnestly that he may receive a pardon. His previous character was good, and he was the only one of several who were concerned in defrauding the bank to receive punishment; and undoubtedly he was enticed into committing the crime charged, by the fraudulent conduct and evil example of those in authority over him.

September 29, 1896. George Fox. Sentenced November 4, 1892; county, New York; crime, grand larceny, second degree; maximum term, five years; prison, State Reformatory.

Fox pleaded guilty of stealing \$40.00 from his step-brother. He has now been imprisoned for nearly four years, a punishment much too severe for the offense; and there is nothing in the circumstances of the case to justify his further detention.

September 29, 1896. Joseph Gulyardi. Sentenced July 19, 1895; county, Rockland; crime, assault second degree; term, three years; prison, Sing Sing.

Recommended by the judge and the district attorney. From information received since the trial they

have become convinced that Gulyardi acted in self-defense and was fully justified in what he did.

September 29, 1896. Max Friedlander. Sentenced November 6, 1895; county, New York; crime, grand larceny, second degree; term, four years and ten months; prison, Sing Sing.

Granted on the recommendation of the judge and the district attorney. Friedlander is insane and probably was so when the alleged larceny was committed. Nine days after sentence he was transferred to the Matteawan State Hospital. He had previously been confined in an asylum in Massachusetts of which State his parents are residents. Upon his release he will be placed by them in an institution for the insane near Boston.

October 6, 1896. Joseph Enfield. Sentenced July 17, 1896; county, Oneida; crime, petit larceny; term, one year; prison, Onondaga County Penitentiary.

Recommended by the judge and many prominent citizens of Utica. Until the commission of this, his first, offense the prisoner had always borne a good character. His health is quite feeble and, in the opinion of the physician, would be seriously impaired by longer confinement.

October 21, 1896. Joseph Bushey. Sentenced August 13, 1896; county, St. Lawrence; crime, indecent exposure; term, six months; prison, Monroe County Penitentiary.

The recorder of Ogdensburg and all of the jury before whom the prisoner was tried certify that from evidence elicited since the trial, they are satisfied that Bushey is innocent and upon that ground unite with the mayor and other citizens in asking for his release.

November 18, 1896. William M. Bowly. Sentenced August 19, 1896; county, New York; crime, attempt to commit grand larceny; maximum term, two years and six months; prison, State Reformatory.

Recommended by the complainant, and by others who are fully conversant with all the facts. Bowly has always been of good character, and although he undoubtedly committed the manual act upon which the indictment was based, there appears to be grave doubt as to any criminal intent. No harm resulted to any person and the circumstances do not demand that the sentence should be enforced.

December 28, 1896. Henry E. B. Pardee. Sentenced June 23, 1894; county, Ontario; crime, forgery, second degree; term, six years; prison, Auburn.

Granted on the recommendation of the judge, the district attorney, and eleven of the convicting jury. Pardee has now served almost three and a half years

of his sentence. He is well along in years, and has been severely punished for his offense. His previous character was good.

December 28, 1896. Charles E. Ackron. Sentenced September 16, 1895; county, New York; crime, grand larceny, second degree; term, three years and ten months; prison, Sing Sing.

Ackron was a salesman in the employ of a firm of ready-made clothing dealers, and was convicted of converting to his own use the sum of thirty-six dollars, part of the price of certain articles sold by him. This appears to have been the extent of the charge made against him. He claims to be innocent, and from an examination of the case the evidence against him does not seem to have been very clear. But without going into that question, the sentence, in view of the amount converted, was quite severe. The judge, the district attorney and the jury are in favor of a pardon.

December 29, 1896. William Reilly. Sentenced October 22, 1894; county, Onondaga; crime, robbery, first degree; maximum term, twenty years; prison, State Reformatory.

Recommended by Judge McLennan who imposed the sentence. Soon after his arrival at the Reformatory, Reilly was transferred to the State Hospital at Matteawan where he has since been. He is somewhat improved mentally, but is quite weak physically, and the chances are against his surviving a great

while. His punishment has been sufficient for the nature of the offense, and his mother makes a very earnest appeal to be permitted to take him home.

December 31, 1896. Cologgia Lobardo, or Coligiro Lambordi. Sentenced December 21, 1894; county, Kings; crime, grand larceny, second degree; term, three years and six months; prison, Kings County Penitentiary.

The prisoner has served the greater portion of his term and is dying with consumption.

COMMUTATIONS

January 2, 1896. John I. Van Ness, Sentenced December 14, 1894; county, Onondaga; crime, assault, second degree; term, two years and three months; prison, Onondaga County Penitentiary.

Commutated to one year and twenty days, actual time.

Recommended by the judge, the district attorney and many prominent citizens of Onondaga county. No injury was inflicted by the assault. Van Ness was a man of good character and has a family dependent upon him for support.

January 8, 1896. Harry Burton. Sentenced December 8, 1892; county, Otsego; crime, arson, second degree; term, six years and six months; prison, Auburn.

Commutated to three years and ten days, actual time, on condition of abstinence from use of intoxicating liquors for three years.

Burton was convicted with another of setting fire to a small building used as a blacksmith shop. No serious injury resulted from the act, which seems to have been the outcome of a drunken spree. His

co-defendant was released some weeks ago by special commutation, and the judge and the district attorney ask that clemency be extended to Burton also.

January 9, 1896. Asa R. Waterman. Sentenced June 29, 1891; county, Kings; crime, manslaughter, first degree; term, sixteen years; prison, Sing Sing.

Commuted to four years, six months and ten days, actual time.

Although the evidence upon the trial was not sufficient in law to establish the claim of self-defense, it did show that the prisoner's act was committed in repelling a sudden and violent assault made upon him by the deceased, a much stronger man than he, so that justly he ought not to be held to a very rigid accountability for the result. Two trials were had, the first jury failing to agree, seven of them being in favor of an acquittal. These seven, together with the twelve who constituted the second jury, unite with a large number of the best citizens of Brooklyn in a petition, strongly urging clemency in Waterman's behalf. The application is very earnestly supported by Governor D. Russell Brown, Senator Nelson W. Aldrich, ex-Governor John W. Davis, ex-Governor Royal C. Taft, Melville Bull, David S. Baker and other distinguished citizens of Rhode Island, in which State Waterman formerly resided; and the petition is signed by prominent congressmen of this and other States, by a number

of judges of courts of record, and by many leading clergymen, business and professional men of the city of New York.

January 9, 1896. Harry Franklin. Sentenced June 25, 1890; county, New York; crime, robbery, second degree; term, fourteen years; prison, Sing Sing; transferred to Clinton.

Commuted to five years, six months and sixteen days, actual time.

Recommended by the judge and the district attorney; also by ex-Governor Plaisted, ex-Governor Davis and other prominent citizens of Maine, including the mayor and other leading public officials of the city of Bangor where Franklin formerly resided. He was only 21 years old when convicted, and until then had always borne a good character. No doubt the crime was robbery, but there was but little violence and only a few cents were stolen.

January 25, 1896. William Mason. Sentenced January 11, 1888; county, Westchester; crime, burglarly, first degree; term, fourteen years; prison, Sing Sing.

Commuted to eight years and sixteen days, actual time.

Recommended by judge, district attorney and complainant. Mason has been a very useful man in prison, and with the usual deduction for good conduct has served over twelve years. His associate in crime who received the severer sentence on account

of his greater culpability has been already discharged by special commutation.

January 25, 1896. Arthur K. Locking. Sentenced July 30, 1890; county, Richmond; crime, burglary, second degree; term, nine years and six months; prison, Sing Sing.

Commutated to five years, five months and twenty-seven days, actual time.

The judge and the district attorney favor the application for clemency on the ground that the prisoner has been sufficiently punished. This was his first offense, and nine months more would complete the term for which he was sentenced, which was the longest permitted by the statute.

January 27, 1896. Samuel Potter. Sentenced May 19, 1896; county, New York; crime, grand larceny, first degree; maximum term, ten years; prison, State Reformatory; transferred to Clinton.

Commutated to five years, eight months and eleven days, actual time.

Potter's co-defendant, who was the principal offender, was sentenced to the State prison for two years and six months. A lighter punishment being intended for Potter, he was committed to the Reformatory. But if allowed the usual commutation for good behavior, he has now served, under the indefinite sentence, a term of nearly nine years. The district attorney recommends that he be released.

February 12, 1896. Joseph Klingler. Sentenced February 18, 1889; county, Monroe; crime, robbery, second degree; term, fifteen years; prison, Auburn.

Committed to six years, eleven months and twenty-eight days, actual time.

Recommended by the judge, the district attorney and the complainant; also by the mayor, aldermen, and other citizens of Rochester. The judge says that the maximum punishment of fifteen years was imposed on account of the frequent occurrence about that time of the crime of highway robbery, but that in his opinion Klingler has now served a sufficient term for his offense and ought to be released.

February 13, 1896. Charles De Lorme. Sentenced October 11, 1893; county, New York; crime, grand larceny, second degree; term, three years and six months; prison, Sing Sing, transferred to Auburn.

Committed to two years, four months and four days, actual time.

De Lorme gave a worthless check for \$45 in payment for goods which he had purchased. He has now served all but four months of his term, and the judge and the district attorney recommend that his prayer for clemency be granted. He can get employment at once which will enable him to take care of his family who are in need.

February 26, 1896. Philip Derringer. Sentenced July 1, 1891; county, New York; crime, manslaughter, second degree; term, twelve years and six months; prison, Sing Sing.

Committed to seven years and six months, subject to legal deduction for good conduct.

In view of the prisoner's previous excellent character and of the doubt which exists as to his having caused the death of the deceased, the term to which the sentence is commuted will be quite sufficient to answer the demands of justice. Clemency is recommended by ten of the jury (all who can be found), by ex-Coroner Levy, who held the inquest and is convinced of Derringer's innocence, and by other reputable citizens of New York.

March 9, 1896. William Rochford. Sentenced March 22, 1894; county, New York; crime, malicious mischief; term, two years and eight months; prison, New York Penitentiary.

Committed to one year, eleven months and seventeen days, actual time.

The prisoner pleaded guilty to an indictment charging him with malicious mischief and causing damage to the amount of \$150. It now appears that the damage amounted to but \$16.50. It was his first offense and he has less than two months to serve.

March 9, 1896. John Connor. Sentenced March 25, 1891; county, Delaware; crime, grand larceny, second degree; term, two years and seven months; prison, Auburn.

Commuted to one year and nine months, actual time, from June 11, 1894.

Recommended by the judge and by leading citizens of the village of Andes where the prisoner resided. Less than four months of his sentence now remain unserved, and a much shorter term would have been imposed had the law permitted it. His wife has died since his imprisonment began, leaving a family of young children unprovided for, and he can get employment at once.

March 9, 1896. Peter Kehoe. Sentenced March 22, 1894; county, New York; crime, robbery; term, five years; prison, Sing Sing; transferred to Auburn.

Commuted to two years, actual time.

The district attorney regards the prisoner's guilt as doubtful, the evidence against him having been quite weak. He was quite young when convicted of this, his first offense; has now served more than half his term and his health is very poor.

March 25, 1896. Louis Hyer. Sentenced February 20, 1894; county, Westchester; crime, burglary, third degree; term, three years; prison, Sing Sing.

Commuted to two years and twenty-four days, actual time.

With commutation for good conduct the prisoner's term would expire in July next. The judge and the district attorney, together with the mayor and other prominent citizens of Mount Vernon, ask that in view of his previous good character and the destitute condition of his family, the remainder of the sentence be remitted.

March 28, 1896. Patrick McGuire. Sentenced November 7, 1890; county, New York; crime, grand larceny, first degree; term, ten years; prison, Sing Sing.

Committed to seven years and six months, subject to legal deduction for good conduct.

Granted on the recommendation of the superintendent of the Matteawan State Hospital (where the prisoner now is) and of the grand jury of Dutchess county, as a suitable recognition of McGuire's conduct in revealing a plot formed by a number of the convicts to escape.

March 28, 1896. George Smith. Sentenced May 23, 1892; county, New York; crime, burglary, third degree, second offence; term, nine years and six months; prison, Sing Sing; transferred to Clinton.

Committed to seven years, subject to legal deductions for good conduct.

Smith's accomplices, although equally guilty, received much lighter sentences, and, while there may have been good reason for some difference, too great

a discrimination seems to have been made. Ex-Recorder Smyth, who sentenced all of them, recommends a reduction of the sentence imposed upon Smith.

March 28, 1896. John McManus. Sentenced September 19, 1873; county, New York; crime, manslaughter, first degree; term, life; prison, Sing Sing; transferred to Auburn.

Commuted to thirty-eight years, subject to legal deduction for good conduct.

It is urged that, in view of the recent change in the law reducing the penalty for manslaughter to imprisonment for not more than twenty years, McManus is fairly entitled to a commutation of his sentence. District Attorney Fellows is of the opinion that the claim is a just one, and that the commutation ought to be granted. When the petition was first presented, in 1890, Judge Brady, who imposed the sentence, thought the case a proper one for clemency provided the prisoner's conduct had been such as to warrant it. The warden's report shows his conduct to have been uniformly good, and upon a careful consideration of the whole case it has been deemed just to commute the sentence to thirty-eight years, subject to further reduction under the statute for good conduct. This will entitle McManus to his discharge in July next if his conduct continues good until then.

March 28, 1896. John Fitzgibbons. Sentenced April 22, 1873; county, New York; crime, manslaughter, first degree; term, life; prison, Sing Sing.

Committed to thirty-nine years, subject to legal deduction for good conduct.

Fitzgibbons and others became engaged in a drunken row which resulted in the killing by Fitzgibbons of one of the number. The statement of the case furnished by Mr. George W. Lyon, who, as assistant district attorney, had charge of the prosecution, shows that there were no circumstances of unusual atrocity and that the facts would not have warranted a verdict for any higher degree of homicide than that of which Fitzgibbons pleaded guilty, viz., manslaughter in the first degree, the punishment for which has been changed since his conviction, to imprisonment for not more than twenty years; and under all the circumstances it seems just that he should receive some benefit from the change. Clemency is recommended by Mr. Lyon; also by Mr. A. A. Brush, late warden, and by many other of the former officers of the prison who testify to Fitzgibbons' excellent conduct since his sentence.

May 1, 1896. John Whalen. Sentenced March 22, 1894; county, New York; crime, attempt to commit robbery, second degree; term, five years; prison, Sing Sing.

Committed to three years, subject to legal deduction for good conduct.

Recommended by the judge and the district attorney. The circumstances were not such as to demand severe punishment, and as there is considerable doubt of the prisoner's mental responsibility the term as commuted will be sufficient.

May 2, 1896. Herman Clarke, Sentenced November 12, 1894; county, New York; crime, forgery, third degree; term, two years and four months; prison, Sing Sing.

Commuted to one year and nine months, subject to legal deduction for good conduct.

The commutation, which reduces Clarke's term of imprisonment about five months, is granted on the recommendation of Judge Smyth who imposed the sentence, of the district attorney, and of a number of citizens of New York. While there can be no question as to the fraudulent character of the act for which Clarke is undergoing punishment, it is quite doubtful if when he committed it he had any knowledge or suspicion that it was of a criminal character. The district attorney says: "His conviction tended to settle and give publicity to the law that a partner could be held criminally liable for frauds committed upon co-partners with relation to firm property, and in that respect much public good was gained by the conviction. It has exercised a salutary and deterrent influence, and I am satisfied that so far as any exemplary end or result could be gained by his conviction

and punishment, that object has already been fully accomplished.”

May 5, 1896. Robert R. Bauer. Sentenced November 23, 1894; county, Kings; crime, grand larceny, first degree; term, two years; prison, Kings County Penitentiary.

Commuted to one year and nine months, subject to legal deduction for good conduct.

Bauer was convicted of misappropriating moneys belonging to his employers. Before his conviction he and his wife turned over all the property of which they were possessed so that the complainants sustained but little actual loss. Bauer has only two months to serve to complete his sentence and is promised immediate employment if released now. The district attorney who procured the conviction, the present district attorney, and other citizens ask that his application be granted.

May 7, 1896. William Plucker. Sentenced March 26, 1896, to be executed; county, Wyoming; crime, murder, first degree.

Commuted to imprisonment for life.

Plucker shot and killed one Hilar Martin. He claimed to have acted in self-defense. He and Martin lived in adjoining houses in the village of Arcade. They had frequent disputes and a feeling of hostility had existed between them for a long time, and each had declared a purpose of killing the other.

On November 17, 1895 (Sunday) they met on the street near a hotel, and after exchanging some angry words Plucker left Martin, went into the hotel and sat down. Martin followed and assaulted him and they became engaged in a scuffle which terminated in Plucker's shooting Martin, killing him. Judge Childs is of the opinion that although there was evidence from which the jury might lawfully infer the pre-meditation and deliberation necessary to constitute murder in the first degree, a conviction of the second degree would have been more satisfactory. Plucker had served a term in the State prison and his bad record probably had some influence on the verdict. The judge recommends that the application for clemency be granted, saying "in my opinion the demands of justice will be fully met by a commutation of Plucker's sentence to imprisonment for life. I think this will be in accord with the sentiment in the community where the crime was committed and I have no hesitation in recommending such action." District Attorney Charles is also in favor of commuting the sentence.

May 8, 1896. John Cook. Sentenced December 5, 1889; county, Monroe; crime, robbery, first degree; term, fourteen years; prison, Auburn.

Commuted to ten years, subject to legal deduction for good conduct.

Cook's companions in crime have already received clemency and the judge and the district attorney, together with Frederick Cook, John F. Kinney, James M. E. O'Grady, J. Miller Kelly, and other citizens of Rochester, ask that the same be extended to him. This was his first offense and a good position with steady employment is promised upon his release.

May 14, 1896. James H. Daley. Sentenced September 22, 1893; county, New York; crime, forgery, second degree; term, four years; prison, Sing Sing.

Commutated to three years and six months, subject to legal deduction for good conduct.

The commutation takes four months from the sentence and is granted on the recommendation of the complainant and of many prominent citizens of Passaic, N. J., where Daley lived. The judge and the district attorney are also favorable to clemency. Immediate employment will be given Daley upon his discharge.

May 19, 1896. John Pihlstrom. Sentenced July 28, 1893; county, New York; crime, grand larceny, second degree; term, four years and five months; prison, Sing Sing.

Commutated to two years, nine months and twenty-three days, actual time.

Very earnestly recommended by the Prison Association. The prisoner was a man of good character

and the sentence was very severe. The commutation makes a reduction of about five months greater than that given by the statute.

May 19, 1896. John Brennan. Sentenced June 15, 1894; county, Columbia; crime, escaping from jail; term, four years and six months; prison, Clinton.

Commutated to two years and five months, subject to legal deduction for good conduct.

The judge and the district attorney recommend a reduction of the sentence which under all the circumstances was too severe. Brennan was only 18 years old when convicted and has been sufficiently punished.

June 8, 1896. Tuefil Tuczkewitz. Sentenced March 1, 1895, to be executed; county, New York; crime, murder, first degree.

Commutated to imprisonment for life.

The commutation is granted on the recommendation of the judge, the district attorney and all of the jurors. The prisoner appears to have been an industrious man of good character, ordinarily peaceable and in all respects a good citizen; and considering the strong provocation under which he acted, the case does not seem to demand that the death penalty should be inflicted.

June 9, 1896. Edward Walsh. Sentenced March 28, 1895; county, New York; crime, assault, second degree; term, three years; prison, Sing Sing; transferred to Clinton.

Committed to one year and four months, actual time.

Walsh and the complainant became engaged in a fight, both of them using dangerous weapons. Walsh was very severely injured and was confined for several months in the hospital; but having been the aggressor an indictment was found against him. His previous character was good, and taking into account all the circumstances, including his physical injuries, imprisonment for the term as commuted seems quite enough for the demands of justice. Judge Cowing, who sentenced him, joins with District Attorney Fellows in recommending clemency.

June 9, 1896. Frank Skibinski. Sentenced May 17, 1894; county, Erie; crime, burglary, third degree; term, four years; prison, Erie County Penitentiary.

Committed to two years and twenty-four days, actual time.

Recommended by the judge and the district attorney. The prisoner has served more than two-thirds of his sentence (the usual allowance being made for good behavior), is in very feeble health and probably can live but a short time.

June 10, 1896. James Farrell. Sentenced December 17, 1894; county, New York; crime, robbery, first degree; term, five years; prison, Sing Sing; transferred to Auburn,

Commuted to one year, five months and twenty-four days, actual time.

There is altogether too much doubt as to Farrell's guilt to warrant his further detention. The evidence against him was of the meagerest description and he ought to have been acquitted. Other good grounds are urged in support of the application, but the commutation is granted on that stated. It is very earnestly recommended by the district attorney and by the warden and other officers of the prison.

July 1, 1896. Charles M. Sibley. Sentenced April 26, 1893; county, New York; crime, grand larceny, second degree; term, four years and ten months; prison, Sing Sing.

Commuted to three years, two months and one day, actual time.

Sibley has less than four months to serve to complete his sentence. His former character was good and his punishment has been sufficient. He has a family dependent upon him and can get employment if released now.

July 7, 1896. Michael Sheehy. Sentenced December 8, 1894; county, Albany; crime, assault, second degree; term, three years and eight months; prison, Clinton.

Commuted to two years and six months, subject to legal deduction for good conduct.

Recommended by Judge Griffith, who imposed the sentence, and by many leading citizens of West Troy, Sheehy's home. The assault was committed during a quarrel between the prisoner, the complainant and others, and while it cannot be said that the evidence showed a case of self-defense, still there were circumstances tending to do so and to excuse in a considerable degree the act complained of.

July 7, 1896. Vincenzo Farina. Sentenced September 3, 1890; county, New York; crime, robbery, second degree; term, ten years and three months; prison, Sing Sing.

Commuted to five years, nine months and twenty-five days, actual time.

The prisoner is very ill and there is but little hope of his recovery. His wife is anxious to take him home. Making the usual deduction for good behavior, only about nine months of his term remain unserved.

July 7, 1896. John Gromer. Sentenced January 4, 1895; county, Kings; crime, selling lottery policies; term, two years; prison, Kings County Penitentiary.

Commuted to one year, five months and seventeen days, actual time.

The district attorney who conducted the prosecution recommends that Gromer's application for clemency be granted. He says: "The sentence was unusually severe, and the judge who presided at the

trial stated to me that he intended, after the expiration of a year, to recommend a pardon; and I have no doubt that he would have done so before his death, which occurred about the first of January last, if he had been physically able to attend to the affairs of the court."

July 14, 1896. Reuben Titus. Sentenced May 18, 1894; county, Westchester; crime, grand larceny, second degree; term, four years and six months; prison, Sing Sing.

Commuted to three years and three months, subject to legal deduction for good conduct.

Granted on the recommendation of the judge and the district attorney. Imprisonment for the term as commuted will be enough.

July 14, 1896. Maria Rubino. Sentenced December 21, 1894; county, New York; crime, assault, second degree; term, three years and three months; prison, State Prison for Women.

Commuted to two years and three months, subject to legal deduction for good conduct.

Very earnestly recommended by a number of prominent citizens of New York. Severe punishment was not demanded in this case. The prisoner appears to have been an industrious woman of good character, maintaining herself and her children by her personal labor; and she was provoked into committing the assault by the most exasperating conduct on the part of the complainant.

July 14, 1896. William Brennan. Sentenced January 19, 1894; county, Kings; crime, receiving stolen goods; term, three years and six months; prison, Kings County Penitentiary.

Committed to two years, five months and twenty-seven days, actual time.

From the physician's report it appears that Brennan will probably die before the expiration of his term in September next, and his friends ask for his release.

August 4, 1896. Joseph Daniels. Sentenced May 14, 1894, county, New York; crime, grand larceny, second degree; term, three years; prison, Sing Sing.

Committed to two years, two months and twenty-one days, actual time.

The physician reports that Daniels is very ill, is sinking rapidly and cannot possibly live out the few remaining weeks of his sentence. This was his first offense, and his term would expire on the 14th of September next.

August 10, 1896. Charles Fischer. Sentenced September 7, 1894; county, New York; crime, grand larceny, second degree; term, two years and six months; prison, Sing Sing.

Committed to one year, eleven months and four days, actual time.

Fischer's term would expire about four weeks hence. He is suffering from a disease which will probably terminate fatally before long and his mother desires to take charge of him.

August 24, 1896. Adam Utrich. Sentenced March 28, 1895; county, Chemung; crime, forgery, second degree; term, five years; prison, Auburn.

Commuted to one year four months and twenty-six days, actual time.

Strongly recommended by Judge Taylor, District Attorney Knipp, Rev. Thomas K. Beecher, Frederick Collin, John B. Stanchfield, Seymour Dexter, J. Sloat Fassett and other leading citizens of Elmira. The judge and the district attorney are of the opinion that Utrich has been sufficiently punished. His family, consisting of a wife and five children, are in exceedingly destitute circumstances, and employment has been secured which will enable him to provide for them.

September 29, 1896. Louis Smaldone. Sentenced November 18, 1891; county, Saratoga; crime, assault, first degree; term, nine years; prison, Clinton.

Commuted to four years, ten months and ten days, actual time.

Considering the prisoner's youth and the provocation under which he acted in committing the assault, the punishment he has already suffered is deemed sufficient. The judge and the district attorney regard his case as a proper one for clemency.

September 29, 1896. William Dorsey. Sentenced March 8, 1889; county, New York; crime, robbery, second degree; term, thirteen years and six months; prison, Sing Sing; transferred to Clinton.

Commuted to seven years, sixteen months and twenty-one days, actual time.

Granted on the application of Hon. Austin Lathrop, Superintendent of State Prisons. Dorsey has been suffering for several years with a painful disease of the eyes, the result of a severe cold contracted while endeavoring to save the property of the State at the time of the fire in the prison on the night of December 31, 1890. Thus far all efforts to relieve him have been unsuccessful, but the physician is of the opinion that removal to a warmer climate might prove beneficial. Dorsey has now served about 12 years of his sentence less commutation for good conduct. His services on the occasion referred to were of great value and it seems just that some benefit should accrue to him therefrom.

September 29, 1896. George Osborne. Sentenced September 10, 1895; county, Allegany; crime, burglary, third degree; term, two years and two months; prison, Auburn.

Commuted to one year and twenty days, actual time.

This was the prisoner's first offense. His family are suffering greatly on account of his imprisonment, and the judge, the complainants and many other

citizens ask that he be released, his punishment having been all that justice requires.

September 29, 1896. Henry G. Mack. Sentenced June 18, 1894; county, Jefferson; crime, bigamy; term, four years and five months; prison, Auburn.

Commutated to two years, three months and eleven days, actual time.

Granted on the recommendation of County Judge Emerson, District Attorney Kellogg, Wilbur F. Porter, Charles H. Walts, Henry Purcell, Charles L. Adams, J. B. Wise, J. O. Hathaway, C. W. Clare, William E. Hart and many other prominent citizens of Watertown. Mack's health is quite poor, and, with the commutation allowed by law, less than a year of his term remains unserved.

September 29, 1896. George R. Rodgers. Sentenced August 28, 1895; county, New York; crime, abandonment; term, two years and two months; prison, Sing Sing.

Commutated to one year, one month and one day, actual time.

Rodgers was living with his second wife. In order to conceal from her the fact that he had been previously married he took his son, five years old, the child of his deceased wife, to a hotel in New York and there deserted him. The boy was soon discovered by one of the employees of the hotel and was

taken in charge by the Society for the Prevention of Cruelty to Children, through whose efforts Rodgers was subsequently apprehended and convicted. A very strong appeal for clemency is now made in his behalf by Mayor E. A. Mayle, G. G. Frelinghuysen, Stanley A. Cohen, and other leading citizens of Morristown, N. J., where Rodgers resided. Clemency is also recommended by Recorder Goff, who imposed the sentence, and by G. G. Haven, acting president of the society above named. The child is now well provided for. Aside from the act for which he is undergoing punishment Rodgers has always been a man of excellent character. Since his imprisonment his family have been dependent upon charity, and his former employers have agreed that in the event of his release they will take him into their service again.

October 6, 1896. Stephen Kneale. Sentenced January 15, 1894; county, Chemung; crime, assault, first degree; term, ten years; prison, Auburn.

Commuted to two years and nine months, actual time.

Dr. Carlos F. MacDonald, President of the State Commission in Lunacy, has made a personal examination of this case, and reports that in his opinion Kneale is insane, and probably was so when he committed the act of which he stands convicted, and consequently was not responsible for the same. The

commutation is granted on condition that he be transferred to an asylum for the insane to be cared for without expense to the State.

October 7, 1896. John Connors. Sentenced December 17, 1890; county, Erie; crime, robbery, first degree; term, twelve years; prison, Auburn.

Commuted to five years, nine months and nineteen days, actual time.

Granted on the recommendation of Judge Seaver and District Attorney Kenefick, who have grave doubts as to Connors' guilt. Judge Seaver writes: "I am convinced, and have been for some time, that there is a very serious question as to whether Connors is actually guilty of this crime."

October 13, 1896. Mina Mattison. Sentenced March 8, 1895; county, Washington; crime, receiving stolen goods; term, two years and eight months; prison, State Prison for Women.

Commuted to one year and seven months, actual time.

Recommended by Judge Griffith, who presided at the trial, by District Attorney Hull, who prosecuted, and by citizens of Cambridge, where the prisoner lived, and where the crime was committed. There can be no doubt that she acted under influences which amounted practically to coercion.

October 13, 1896. Frank McCormick. Sentenced May 27, 1891; received at prison June 28, 1892; county, New York; crime, manslaughter, first degree; term, fifteen years; prison, Sing Sing.

Committed to seven years and six months from June 28, 1892, subject to legal deduction for good conduct.

The prisoner was twenty-two years old when convicted. This was his first offense. The evidence against him was not strong. The district attorney recommends clemency on the ground of doubt as to his guilt. Ex-Recorder Smyth, before whom the trial was had, thinks the conviction was fully sustained by the evidence, but favors clemency on the ground of the prisoner's youth and previous good character. Imprisonment for one-half the term imposed by the court will be sufficient.

October 21, 1896. Thomas Flynn. Sentenced October 29, 1895; county, Albany; crime, petit larceny, three offenses; term, two years and six months; prison, Albany County Penitentiary.

Committed to one year, actual time.

Flynn was convicted on three charges of petit larceny. The aggregate value of the property stolen was \$15.25. The punishment seems too severe. The commutation is granted on the recommendation of the recorder of Cohoes, by whom the sentence was imposed, and of the mayor and other city officers.

October 22, 1896. William Purcell. Sentenced May 8, 1893; county, New York; crime, manslaughter, first degree; term, eleven years and one month; prison, Sing Sing.

Commuted to six years and six months, subject to legal deduction for good conduct.

Upon a careful consideration of all the facts of this case, it has been deemed just to reduce the sentence to imprisonment for six years and six months, subject to such commutation as the prisoner may earn by good behavior. While there does not appear to be any good reason to doubt that Purcell fired the shot which killed the deceased, there is abundant ground for the conclusion that the shooting was done merely for the purpose of dispersing and driving away a crowd of disorderly persons, who had congregated about his place of business and were creating a disturbance; and that while his act was undoubtedly one of gross and culpable carelessness, there was no intention on his part to injure the deceased or any one else.

Judge Ingraham, before whom Purcell was tried, recommends that his application for clemency be granted, saying: "He was a man of good character, and this was his first offense. It is quite apparent that he had no intention of killing or injuring the deceased, and, under all the circumstances, in my opinion the proper administration of justice does not require that he should serve out the sentence. In my opinion, therefore, he is a proper subject for

executive clemency." Clemency is also recommended by the district attorney.

October 29, 1896. Dennis Hurlbert. Sentenced September 7, 1894; county, Orange; crime, grand larceny, second degree; term, three years and six months; prison, Sing Sing.

Commuted to two years, one month and twenty-one days, actual time.

The prisoner is quite ill and the physician reports that he can live only a few days. This was his first offense and he has served all but about six months of his sentence, less commutation earned for good behavior.

October 29, 1896. William Thompson. Sentenced October 28, 1889; county, New York; crime, robbery, first degree; term, twelve years and six months; prison, Sing Sing.

Commuted to seven years and two days, actual time.

Thompson has been sufficiently punished and his health is very poor.

November 11, 1896. Fred Rahn. Sentenced October 10, 1894; county, Chautauqua; crime, bigamy; term, three years and five months; prison, Auburn.

Commuted to two years, one month and two days, actual time.

Granted on the petition of the mayor, councilmen and other city officials of Dunkirk where Rahn re-

sided; and on the recommendation of Judge Van Dusen, who presided at the trial, and of Judge Woodward, who, as district attorney, conducted the prosecution. With the commutation allowed by law the sentence would expire in May next; but Rahn is justly entitled to something more than the usual commutation for having, at the risk of his own life, saved that of a keeper who had been attacked by one of the convicts.

November 11, 1896. Adolph Oster. Sentenced May 22, 1889; county, Westchester; crime, burglary, first degree; term, thirteen years; prison, Sing Sing; transferred to Auburn.

Commutated to twelve years subject to legal deduction for good conduct.

Recommended by the district attorney and many reputable citizens of Mount Vernon where Oster lived. His previous character was good and the sentence was quite severe for a first offense.

November 11, 1896. William Rossman. Sentenced January 25, 1895; county, Columbia; crime, grand larceny, first degree; term, five years; prison, Clinton.

Commutated to three years and six months, subject to legal deduction for good conduct.

Rossman was convicted, on his plea of guilty, of embezzling moneys of a bank of which he was book-keeper. Before his conviction he turned over to the

bank all the property of which he was possessed, thereby reducing considerably the amount of his defalcation. Except for this, his first offense, he had always borne an excellent character. He is still a young man, is very penitent and seems fully determined to regain, if possible, the esteem in which he was formerly held. A very earnest appeal is made for clemency in his behalf, the petition being signed by the president, the vice-president, nine of the thirteen directors, and stockholders owning a majority of the stock of the defrauded bank; also by many prominent residents of Columbia county. Judge Fursman, who imposed the sentence, and District Attorney McCormick, who had charge of the prosecution, recommend that the application be granted.

November 11, 1896. Frank Ellison. Sentenced October 9, 1893; county, New York; crime, assault, second degree; term, five years; prison, Sing Sing.

Commuted to three years, one month and thirteen days, actual time.

This commutation allows to Ellison as part of his sentence the time he spent in the city prison before his conviction, and is granted on the recommendation of Recorder Smyth, who presided at the trial, of De Lancey Nicoll, who was district attorney at the time, and of eleven of the jurors who rendered the verdict.

November 18, 1896. Simon Mahoney. Sentenced November 25, 1893; county, Niagara; crime, manslaughter, second degree; term, seven years; prison, Auburn.

Commutated to four years, subject to legal deduction for good conduct.

Under an indictment for murder in the second degree Mahoney was convicted of manslaughter in the second degree for killing his brother Cornelius. The evidence showed that, while Cornelius was trying to take a revolver from Simon's possession the revolver was discharged, wounding Cornelius so that he died a few days afterwards. Simon was drunk at the time. The district attorney says that, although the jury found a verdict of guilty, it was a close question whether the shooting was intentional or accidental, and he unites with Judge Millar, before whom the trial was had, in recommending a modification of the sentence. The petition for clemency is signed by many leading citizens of Niagara Falls, where Mahoney resided.

November 18, 1896. Henry W. Heartt. Sentenced February 26, 1894; county, Saratoga; crime, grand larceny, second degree; term, five years; prison, Clinton.

Commutated to four years, subject to legal deduction for good conduct.

Granted on the recommendation of County Judge Houghton, who imposed the sentence, of District At

torney Burnham and of Hon. Austin Lathrop, Superintendent of State Prisons. General Lathrop writes that Heartt has rendered unusual service as a hospital attendant at the prison, and recently by his faithful and skillful care has contributed very largely to the recovery of one of the officers, and that, in the interest of discipline and as an inducement to others, Heartt ought to be suitably rewarded for the service performed by him.

November 18, 1896. Philip Lamont. Sentenced February 26, 1885; county, Erie; crime, murder, second degree; term, life; prison, Auburn.

Commutated to twenty-one years, subject to legal deduction for good conduct.

That Lamont was properly convicted of murder does not appear seriously doubtful; but there were no circumstances of great atrocity, the homicide being the result of a drunken spree and the whole transaction being of such a character as to render life imprisonment too severe. Lamont's previous character was good and his conduct in prison has been commendable. Judge Hatch, who, as district attorney, conducted the prosecution, recommends that his prayer for clemency be granted.

December 1, 1896. Louis Ingalls. Sentenced October 26, 1892; county, New York; crime, grand larceny, first degree; term, seven years; prison, Sing Sing; transferred to Auburn.

Commuted to four years, one month and six days, actual time.

A reduction of eight months, in addition to that allowed by the statute, is granted on the very earnest recommendation of the warden and other principal officers of the prison, who state that, throughout the whole of his imprisonment, Ingalls has been of unusual service and is fairly entitled to his release on account thereof.

December 1, 1896. Edward Aurelius. Sentenced March 3, 1892 county, Rensselaer; crime, manslaughter, second degree; term, fifteen years; prison, Clinton.

Commuted to ten years, subject to legal deduction for good conduct.

Recommended by Judge Fursman, who sentenced the prisoner, by District Attorney Kelly, who prosecuted him, by County Judge Griffith, by ten of the jury and other citizens. The prisoner was a man of good character, and the circumstances of the case were not such as to demand so severe a penalty as the one imposed.

December 1, 1896. Alfred Wills. Sentenced June 6, 1889; county, Cayuga; crime, forgery, second degree, second offense; term, twenty years; prison, Auburn.

Commuted to ten years with legal deduction for good conduct.

Wills obtained about thirty dollars on a forged check. It was his second offense, hence the severe sentence. The judge and the district attorney are of the opinion that imprisonment for the full term would be too severe, and the commutation is granted on their recommendation.

December 1, 1896. Joseph Norton. Sentenced March 19, 1891; county, Queens; crime, burglary, first degree; term, thirteen years; prison, Sing Sing.

Commuted to nine years, subject to deduction for good conduct.

The jury seem to have dealt quite severely with Norton in finding him guilty of burglary in the first degree, although the evidence was no doubt legally sufficient to establish that grade of crime. One of his companions was afterwards tried on the same indictment and convicted of burglary in the third degree. A third, who participated in the affair, was not arrested. According to the report of the district attorney the offense lacked all the elements of cool, deliberate burglary, being more in the nature of a drunken carouse. It is probable that the jury were

influenced in their action, to some extent, by the fact that Norton had been previously convicted of a somewhat similar offense. The judge and the district attorney are of the opinion that a commutation may now be properly granted, provided Norton's conduct during confinement has been good. Clemency is also recommended by seven of the jury (all who can now be found). The petition is signed by the complainant and other residents of Queens county. Under the commutation granted, if he earns the usual reduction for good conduct, Norton will be released in February next.

December 2, 1896. Nathaniel T. Houghton. Sentenced April 19, 1895; county, Kings; crime, grand larceny, second degree; term, three years; prison, Kings County Penitentiary.

Commutated to two years, subject to legal deduction for good conduct.

Houghton purloined about \$2,000 of the funds of the Montauk Club of Brooklyn of which he was cashier. The president, directors and other officers, and members generally of the club, which alone sustained loss on account of Houghton's wrongdoing, present a strong appeal for clemency in his behalf. Previous good character is shown, and employment has been secured for him.

• December 2, 1896. Lewis A. Hill. Sentenced March 14, 1894; county, New York; crime, grand larceny, first degree; term, four years and three months; prison, Sing Sing.

Commuted to two years, eight months and twenty days, actual time.

The commutation reduces the prisoner's term of service by five months, and is granted on the recommendation of Governor Griggs and other prominent citizens of New Jersey. The district attorney is also in favor of clemency, believing that Hill's punishment has been ample.

December 2, 1896. James F. Adams. Sentenced February 1, 1895; county, Kings; crime, grand larceny; term, six years; prison, Sing Sing, transferred to Clinton.

Commuted to five years, subject to legal deduction for good conduct.

The complainant promised the prisoner that, if he would plead guilty, he should be prosecuted upon only one indictment. The district attorney, not being aware of this promise, arraigned him upon two indictments, to both of which he pleaded guilty and was sentenced upon both. The district attorney is of the opinion that the promise made by the complainant ought to have been kept, and recommends that the sentence be reduced accordingly.

December 8, 1896; William West. Sentenced September 30, 1874; county, Westchester; crime, murder, second degree; term, life; prison, Sing Sing.

Commuted to forty years, subject to legal deduction for good conduct.

West, who was a convict in Sing Sing prison, became involved in a quarrel with a fellow convict and killed him. It is claimed by a number of reputable persons who have taken an interest in the case that, although he pleaded guilty, he acted in self-defense; but no official information as to the facts has been obtainable. West was but nineteen years old at the time, and in view of his youth and of some doubt as to the grade of his offense it has been deemed just to extend some clemency to him. The application has been on file for a number of years during which, from time to time, a pardon has been recommended by William E. Dodge, Samuel L. M. Barlow, William D. Shipman, Charles A. Dana, Hubert O. Thompson, Thomas L. James, Chauncey M. Depew, Rev. Theodore L. Cuyler, Rev. Richard S. Storrs, Rev. A. J. F. Behrends, Rev. John Hall, Rev. Charles H. Eaton, Rev. Robert Collyer, John J. Kiernan, John J. Cullen, Dominick H. Roche, Henry A. Hartt, William H. Guion, Richard Croker, August Belmont, Jr., Gen. F. B. Spinola, Bernard Biglin, Perry Belmont, William Dorsheimer, Robert Hall, Rev. Lyman Abbott and other well known citizens.

December 8, 1896. Merton Luther. Sentenced December 14, 1894; county, Herkimer; crime, grand larceny, second degree; term, three years and six months; prison, Auburn.

Commutated to two years and six months, subject to legal deduction for good conduct.

Recommended by Judge Sheldon, Judge Devendorf (who was district attorney at the time of Luther's conviction), by A. D. Richardson, the present district attorney, and by many other citizens of Herkimer county, including the complainant. This having been Luther's first offense imprisonment for the reduced term is deemed sufficient.

December 8, 1896. Herman Fischer. Sentenced February 24, 1896; county, New York; crime, forgery, third degree; term, two years; prison, Sing Sing.

Commutated to one year, subject to legal deduction for good conduct.

Recommended by many prominent business men of New York, who represent Fischer to have been a man of excellent character until his conviction; also by Judge Cowing who imposed the sentence, and by District Attorney Fellows. One year will be punishment enough, and Fischer has a family in need of his support and can get employment at once.

December 8, 1896. Ferdinand N. Ewers. Sentenced May 27, 1892; county, New York; crime, grand larceny, first degree; term, nine years and five months; prison, Sing Sing.

Committed to seven years, subject to legal deduction for good conduct.

The judge and the district attorney favor clemency in this case. Seven years' imprisonment will fully satisfy the demands of justice.

December 21, 1896. John T. Fay. Sentenced December 18, 1895; county, New York; crime, grand larceny, second degree; term, three years; prison, Sing Sing; transferred to Clinton.

Committed to one year and five days, actual time.

The prisoner collected for his employer about fifty dollars which he appropriated to his own use. As this was his first and only offense the sentence was too severe. One year is ample.

December 21, 1896. Benjamin Lee. Sentenced November 10, 1893; county, New York; crime, grand larceny, second degree; term, five years; prison, Sing Sing.

Committed to three years, one month and thirteen days, actual time.

A reduction of six months beside that allowed for good conduct is granted on the recommendation of the district attorney. The prisoner was but twenty-one years old at the time of the sentence, which was for the maximum term, and this was his first offense.

December 21, 1896. George Chapman. Sentenced October 2, 1894; county, Steuben; crime, burglary, third degree; term, five years; prison, Auburn.

Commuted to two years, two months and thirteen days, actual time.

The district attorney reports upon this application for clemency as follows: "Chapman was convicted with two other men of entering a house at Avoca, in this county, and getting some small amount of property and something to eat. The other two when arraigned pleaded guilty, and one was fined twenty-five dollars and the other sentenced for sixty days in jail. They pleaded to petit larceny as I remember and as the records show. Chapman pleaded not guilty, but at a subsequent term of court pleaded guilty as indicted and was sentenced to Auburn for five years."

The sentence imposed upon Chapman was clearly excessive.

December 21, 1896. John Emison. Sentenced April 3, 1895; county, New York; crime, grand larceny, first degree; term, four years; prison, Sing Sing.

Commuted to one year, eight months and eighteen days, actual time.

This commutation is granted on the petition of many leading merchants of New York and of Brooklyn who have known Emison for many years, and certify to his uniform good conduct and exemplary life

prior to the offense of which he was convicted. Restitution to a very considerable amount has been made to the complainants. Emison's family are absolutely destitute and dependent upon charity for support, and immediate employment has been promised which will enable him to provide for them. The judge and the district attorney, while not expressly recommending clemency, are not unfavorable to it. Including the time he was in confinement previous to his sentence, Emison has now been imprisoned for more than two years, and upon a careful examination of all the facts it is believed that his punishment has been sufficient.

December 28, 1896. Maurice Woolf. Sentenced January 5, 1892; county, New York; crime, robbery, first degree; term, nineteen years; prison, Sing Sing.

Commutated to eight years, subject to legal deduction for good conduct.

Very earnestly recommended by Mr. Patenotre, French Ambassador at Washington, and by many citizens of New York; also by the complainant. Woolf was convicted of snatching a pocket book from a lady's hand. He was only 19 years old at the time and the sentence was very severe.

December 28, 1896. Harold G. Butt. Sentenced January 25, 1895; county, New York; crime, forgery, second degree; term, four years and six months; prison, Sing Sing.

Committed to three years, subject to legal deduction for good conduct.

Recommended by Lieutenant-Governor Saxton, Senator George W. Brush, Judge Nathaniel H. Clement, Judge William J. Gaynor, Judge William J. Osborne and many prominent citizens of Brooklyn. The prisoner had always borne a good character, and imprisonment for the term to which the sentence is commuted will be a sufficient atonement for his offense.

December 28, 1896. Edmund F. Weber. Sentenced January 23, 1895; county, New York; crime, attempt to commit forgery, second degree; term, three years and seven months; prison, Sing Sing.

Committed to two years and six months, subject to legal deduction for good conduct.

Weber appropriated to his own use about two hundred dollars which had come into his possession as the agent of a charitable institution in New York. In view of his previous good character the sentence seems somewhat severe. The commutation is granted on the recommendation of Cardinal Gibbons, of the Rev. James J. Dougherty on whose complaint Weber was arrested, of the Rev. William Kessel of Baltimore, and others.

December 28, 1896. Theodore Benjamin. Sentenced December 11, 1886; county, Lewis; crime, murder, second degree; term, life; prison, Auburn.

Commuted to sixteen years and six months, subject to legal deduction for good conduct, on condition of abstinence from the use of intoxicating liquors.

In December, 1886, at the Lewis Oyer and Terminer, Benjamin was tried before Judge Vann and convicted of murder in the second degree, for killing his mother. There was no apparent motive for the crime. The defense interposed was insanity, and the leading physicians of the county were examined, but neither of them was very well qualified to speak as an expert, never having made insanity the subject of special investigation or study. A few months after the trial, at the request of Judge Vann, who had serious doubt as to Benjamin's sanity, Dr. Carlos F. MacDonald made a thorough and careful investigation of the case, bringing to light some very material and important facts which had before then escaped attention, and reaching the conclusion that Benjamin was insane at the time of the homicide. Judge Vann then determined to recommend a pardon after Benjamin should have served ten years with good conduct. Judge Vann now writes: "The ten years have now expired and I learn that Benjamin's conduct in prison has been satisfactory, and I now respectfully recommend a pardon upon the con-

dition, however, that he shall absolutely abstain from the use of intoxicating liquors. Drunkenness was the cause of his misfortune. He was a rough man occupied in lumbering and logging in the North Woods with rough associates, and he had for many years been addicted to the excessive use of intoxicating liquors. I regarded his mind as somewhat unhinged and unbalanced by his bad habits. I think it is safe to restore him to society provided he will keep sober. I do not think it would be safe to pardon him without annexing that condition." Favorable consideration of the case is also very earnestly recommended by many citizens of Lewis county. With continued good conduct Benjamin will obtain his discharge about the first of April next.

December 28, 1896. William E. Heim. Sentenced February 17, 1893; county, Oneida; crime, burglary, third degree, and grand larceny, second degree; term, twenty years; prison, Auburn.

Commuted to eight years, subject to legal deduction for good conduct.

A very severe sentence was imposed for the reason that the crime was a second offense. The judge is now satisfied that, in view of all the circumstances, it was excessive, and he unites with the district attorney and other prominent citizens of Oneida county in recommending a commutation.

December 28, 1896. Charles Warner. Sentenced September 19, 1890; county, Queens; crime, burglary, first degree; term, seventeen years and six months.

Commuted to thirteen years, subject to legal deduction for good conduct.

Granted on the recommendation of the warden, Warren having at the risk of his life rescued one of the keepers who had been attacked by a convict.

December 28, 1896. George E. Gordon. Sentenced May 5, 1866; county, Schoharie; crime murder, second degree; term, life; prison, Clinton.

Commuted to fifty-two years, subject to legal deduction for good conduct.

In view of the prisoner's exemplary conduct and valuable services throughout a very long term of imprisonment, it has been considered just, as well as merciful, to grant to him some reduction of the life sentence. Clemency has been very earnestly urged in his behalf, from time to time, by the wardens and other officers of the prison, and his petition is signed by a number of the most prominent citizens of Rensselaer county, of which county Gordon was a resident.

December 29, 1896. Edward Carr. Sentenced April 10, 1896; county, Rensselaer; crime, burglary, third degree; term, two years and six months; prison, Clinton.

Commuted to one year and six months, subject to legal deduction for good conduct.

Recommended by the judge and the district attorney, and by leading business men of Hoosick Falls, where Carr lived and where the crime was committed. Carr and a companion broke and entered a saloon, and stole two bottles of wine and a few cigars. His companion was not prosecuted. Justice will be fully attained by imprisonment for the reduced term.

RESPITES

January 6, 1896. Bartholomew Shea. Sentenced July 5, 1894, to be executed ; crime, murder, first degree ; county, Rensselaer.

Respite until February 4, 1896. Granted on application of the prisoner's counsel, who desires to move for a new trial on the ground of newly discovered evidence.

January 31, 1896. Bartholomew Shea.

Further respited until February 11, 1896. Judge Mayham, before whom the motion for a new trial has been argued, suggests that a further respite be granted to enable him to examine properly the evidence, and the affidavits and other papers submitted, and to render his decision.

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